





## Selected Subjects

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There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under **INFORMATION AND ASSISTANCE** in the **READER AIDS** section of this issue.

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Postal Service

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# Presidential Documents

Title 3—

Proclamation 5247 of October 4, 1984

The President

National Employ the Handicapped Week, 1984

By the President of the United States of America

## A Proclamation

Today we are at a benchmark in the employment of men and women with disabilities. We have made more progress than we would have dared dream of a century ago. But this very progress underlines the pressing needs which have not yet been met.

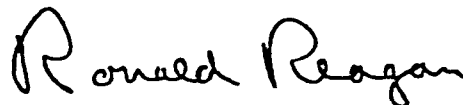
These are needs that will demand the utmost of all segments of our population—public and private, professional and volunteer, industry and labor, those who provide services and those who use them.

We have made great gains because of better training and job preparation, greater public understanding of disability, and the willingness of employers to accommodate jobs to disabled workers. We have actively encouraged this progress through programs such as equal employment opportunity and targeted tax credits. Disabled people have been given expanded opportunities for jobs with futures, but obstacles to the effective utilization of such opportunities remain, and technological advances are still beyond the reach of many who need them.

The Congress, by joint resolution approved August 11, 1945, as amended (36 U.S.C. 155), has called for the designation of the first full week in October of each year as "National Employ the Handicapped Week." During this week, let us renew our commitment to increase opportunities for disabled citizens and to help them attain their personal goals.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning October 7, 1984, as National Employ the Handicapped Week. I urge all governors, mayors, other public officials, leaders in business and labor, and private citizens to help meet the challenge of the future by ensuring that disabled people have the opportunity to participate fully in the economic life of the Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of October, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.





## Presidential Documents

Proclamation 5248 of October 4, 1984

### National Children's Week, 1984

By the President of the United States of America

#### A Proclamation

The future of our free society depends on our most important resource: our children. For ourselves as for every other society, our children are our future.

Over the course of human history, men and women in every time and place have chosen the family as the best institution for the raising and nurturing of children. Today, there is a renewed appreciation of the crucial role the family plays in producing healthy and self-confident children, who will mature into adults capable of forming the bonds of love and affection which sustain society.

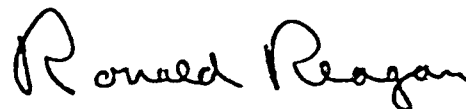
Children grow best in families supported by the love of parents who pass on to them the rich moral heritage of our civilization and help develop their sense of responsibility to the larger community. Children who are confident of their own worth within a family will bring confidence and strength to our society.

National Children's Week provides an opportunity for us to reaffirm our commitment to ensuring our children a firm foundation for physical, mental, and spiritual growth. As we embrace the younger generation, let us remember that we hold the future in our hands.

The Congress, by House Joint Resolution 153, has designated the week of October 7 through October 13, 1984, as "National Children's Week" and has authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of October 7 through October 13, 1984, as National Children's Week. I call upon government agencies and the people of the United States to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of October, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.





## Presidential Documents

Proclamation 5249 of October 4, 1984

### National Quality Month, 1984

By the President of the United States of America

#### A Proclamation

A commitment to excellence in manufacturing and services is essential to our Nation's long-term economic welfare. Quality in manufacturing and services will contribute to increased productivity, reduced costs, and consumer satisfaction.

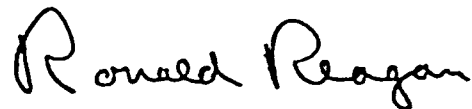
Historically, American craftsmen have shown great personal pride and interest in developing quality goods and services. Today, we must reinforce our pride of workmanship by renewing that commitment.

Improving the quality of American goods and services depends upon each of us. Individual workers, business managers, labor leaders, and government officials must all work to promote a standard of excellence in the public and private sectors.

To provide for a greater awareness of the need to ensure that American goods and services are of the highest quality, the Congress, by Senate Joint Resolution 304, has designated the month of October 1984 as "National Quality Month" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the month of October 1984 as National Quality Month, and I call upon the people of the United States to observe such month with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of October, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.



[FR Doc. 84-26778]

Filed 10-5-84; 10:26 am]

Billing code 3195-01-M





# Rules and Regulations

Federal Register

Vol. 49, No. 196

Tuesday, October 9, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

### 1 CFR Part 3

#### Price Changes to ACFR Publications

**AGENCY:** Administrative Committee of the Federal Register.

**ACTION:** Final rule.

**SUMMARY:** The Administrative Committee of the Federal Register (ACFR) announces changes in the prices of certain publications. The annual subscription prices of the microfiche editions of the Federal Register and Code of Federal Regulations (CFR) and the price of a single issue of the Weekly Compilation of Presidential Documents are reduced to reflect lower costs. The prices for annual subscriptions to the Weekly Compilation of Presidential Documents and the Federal Register Index and for individual issues of the CFR in microfiche are increased to fully recover production and distribution costs to the Government.

#### EFFECTIVE DATES:

Federal Register microfiche price, § 3.4 (b) (3)—November 8, 1984.

Code of Federal Regulations microfiche prices, § 3.4 (b) (4)—January 1, 1985.

Weekly Compilation of Presidential Documents prices, § 3.4 (b) (7)—November 8, 1984.

Federal Register Index, § 3.4 (b) (8)—November 8, 1984.

**FOR FURTHER INFORMATION CONTACT:** Frances D. McDonald, (202) 523-4534.

**SUPPLEMENTARY INFORMATION:** The ACFR, which establishes prices for Federal Register publications, has determined that the annual subscription price for the microfiche edition of the Federal Register will be reduced to \$145

effective with subscriptions beginning November 8, 1984. Lower than anticipated first-year costs for the edition led to the price reduction.

The ACFR also has determined that the annual subscription for the 50-Title Code of Federal Regulations in microfiche will be \$185 beginning with the 1985 edition of the CFR. This reduction is due to a more favorable production contract awarded competitively by the Government Printing Office (GPO). However, the price for individual issues of the CFR in microfiche is rising from \$2.25 to \$3.75 to reflect increased handling costs for these separate orders.

The annual subscription price for the Federal Register Index, bought separately, is increased from \$18 to \$22 effective November 8, 1984, because of higher production costs.

Finally, the ACFR has determined that the price of an annual subscription to the Weekly Compilation of Presidential Documents will be increased to \$60 effective November 8, 1984. Documents will be increased to \$60 effective November 8, 1984. This increase is necessary in order to make the publication self-sustaining. The annual subscription price for first-class mailing will be increased to \$101. However, the price of individual issues of this publication decreases from \$2.25 to \$1.75 under a revised GPO general pricing formula reducing handling costs for publications of this size.

This is not a major rule under E.O. 12291. The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) does not apply to these changes because they do not constitute a rule as defined by that Act nor do they necessitate a notice of proposed rulemaking.

#### List of Subjects in 1 CFR Part 3

Government publications, Federal Register publications, Subscription rates.

#### PART 3—SERVICES TO THE PUBLIC

For the reasons set out in the preamble and under the authority given the Administrative Committee of the Federal Register by 44 U.S.C. 1506, Part 3 of Chapter I of Title 1 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 3 continues to read as follows:

Authority: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954-1958 Comp., p. 189.

2. Section 3.4 is amended by revising paragraphs (b)(3), (4), and (7) and adding (b)(8) to read as follows:

#### § 3.4 Subscriptions and availability of Federal Register publications.

\* \* \*

(b) \* \* \*

(3) Federal Register. The daily issues of the Federal Register will be furnished by mail to subscribers for \$300 per year or \$150 for six months for the paper edition, or for \$145 per year for the microfiche edition. Subscription fees are payable in advance to the Superintendent of Documents, Government Printing Office. Limited quantities of current or recent paper and microfiche copies may be obtained from the Superintendent of Documents, Government Printing Office, for \$1.50 per copy.

(4) Code of Federal Regulations. A complete set will be furnished by mail to subscribers for \$550 per year for the bound, paper edition, or for \$185 per year for the microfiche edition. Subscription fees are payable in advance to the Superintendent of Documents. Individual copies of the Code volumes are sold by the Superintendent of Documents at prices determined by the Superintendent under the general direction of the Administrative Committee. The price of individual issues in microfiche is \$3.75.

\* \* \*

(7) Weekly Compilation of Presidential Documents. (i) Nonpriority mailing. Issues will be furnished by mail to subscribers for \$60 per year payable in advance to the Superintendent of Documents, Government Printing Office.

(ii) First-class mailing. Issues will be furnished to subscribers by first-class mail for \$101 per year payable in advance to the Superintendent of Documents, Government Printing Office. Individual issues may be obtained for \$1.75 per copy from the Superintendent of Documents, Government Printing Office.

(8) Federal Register Index. The annual subscription price for the Federal

Register Index purchased separately is \$22.

Robert M. Warner,  
Chairman.

William J. Barrett,  
Member.

Ralph W. Tarr,  
Member.

Approved: October 2, 1984.

William French Smith,  
Attorney General.

Ray Kline,  
Acting Administrator of General Services.

[FR Doc. 84-26821 Filed 10-8-84; 8:45 am]

BILLING CODE 4410-01-M

## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

#### 7 CFR Part 444

[Amdt. No. 1; Docket No. 1332S]

#### Fresh Tomato Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) hereby amends the Fresh Tomato Crop Insurance Regulations (7 CFR Part 444), effective for the 1985 and succeeding crop years. The intended effect of this action is to update the provisions of the policy for insuring fresh tomatoes, as outlined herein. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

**EFFECTIVE DATE:** November 8, 1984.

**FOR FURTHER INFORMATION CONTACT:** Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3325.

**SUPPLEMENTARY INFORMATION:** This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1 (December 15, 1983). This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), because it will not result in: (a) An annual effect on the economy of \$100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local

governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which this proposed rule apply are: Title—Crop Insurance; Number 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

On Wednesday, May 30, 1984, FCIC published a notice of proposed rulemaking in the Federal Register at 49 FR 22483, proposing to amend the Fresh Tomato Crop Insurance Regulations (7 CFR Part 444) as follows:

(1) specifying named perils as the causes of loss to be insured against; (2) prohibiting coverage for tomatoes grown for direct consumer marketing; (3) providing that coverage will not attach to an acreage where tomatoes were planted the previous planting period unless the tomato plants from the previous period were destroyed less than 60 days after date of direct seeding; (4) providing that lack of available plants will not be a consideration in determining whether or not an acreage should be replanted; (5) providing for final planting dates in the actuarial tables; (6) including ripe tomatoes in production to count; (7) increasing the minimum value of unsold, harvested, or appraised production with respect to the allowable cost for harvest and hauling; (8) defining maximum bed width; (9) redefining the planting period; and, (10) adding two sections dealing with "notices" and "determinations."

The public was given 60 days in which to submit written comments, data, and opinions on the proposed rule, but none were received. Therefore, the proposed rule as published on May 30, 1984, is hereby adopted as final with minor and non-substantial changes in language.

#### List of Subjects in 7 CFR Part 444

Crop insurance, Fresh market tomatoes.

#### Final Rule

#### PART 444—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Fresh Market Tomato Crop Insurance Regulations (7 CFR Part 444), effective with the 1985 and succeeding crop years, in the following instances:

1. The authority citation for 7 CFR Part 444 is:

Authority: 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1500, 1510).

#### § 444.7 [Amended]

2. 7 CFR 444.7(d) is revised to read as set forth below:

\* \* \* \* \*

(d) The application for the 1985 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Fresh Tomato Crop Insurance Policy for the 1985 and succeeding crop years are as follows:

#### DEPARTMENT OF AGRICULTURE Federal Crop Insurance Corporation

#### Fresh Market Tomato—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

Agreement to insure: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

#### Terms and Conditions

##### 1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

- (1) Frost;
- (2) Freeze;
- (3) Hail;
- (4) Fire;
- (5) Tornado;
- (6) Hurricane;
- (7) Tropical depression that has been named by the U.S. Weather Service; or
- (8) Failure of the irrigation water supply after planting due to an unavoidable cause unless those causes are excepted, excluded, or limited by the actuarial table or section 9f(6).

b. We do not insure against any loss of production due to:

- (1) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants or employees;
- (2) The failure to follow recognized good fresh market tomato (tomato) farming practices;
- (3) The impoundment of water by any governmental, public or private dam or reservoir project;
- (4) Any cause not specified in section 1a as an insured loss;
- (5) The failure to carry out a good tomato irrigation practice; or
- (6) The breakdown of irrigation equipment or facilities.

2. Crop, acreage, and share insured.

a. The crop insured shall be tomatoes (excluding cherry-type tomatoes) which are planted for harvest as fresh market tomatoes in which you have a share as reported by you or as determined by us, whichever we elect; which are grown on insured acreage; and for which an amount of insurance and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year must be irrigated acreage designated as insurable by the actuarial table.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured tomatoes at the time of each planting period.

d. We will not insure any acreage of tomatoes grown by any person if:

- (1) The person had not grown tomatoes for commercial sales the previous crop year; or
- (2) The person had not participated in the management of the tomato farming operation the previous crop year.

e. We do not insure any acreage:

(1) Of tomatoes grown for direct consumer marketing;

(2) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(3) Which is not irrigated;

(4) On which tomatoes are not grown on plastic mulch;

(5) On which tomatoes, peppers, eggplants or tobacco have been grown and the soil was not fumigated before the planting of tomatoes;

(6) Which was planted to tomatoes the preceding planting period, unless the tomato plants of the preceding planting period were destroyed;

(a) Less than 30 days after the date of transplanting; or

(b) Less than 60 days after the date of direct seeding;

(7) Which is destroyed and it is practical to replant to tomatoes but such acreage is not replanted (availability of plants for replanting, will not be considered when determining the practicability of replanting);

(8) Initially planted after the final planting date contained in the actuarial table;

(9) Of volunteer tomatoes;

(10) Planted to a type or variety of tomatoes not established as adapted to the area or excluded by the actuarial table;

(11) Planted for experimental purposes; or

(12) Planted with a crop other than tomatoes.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of acreage, share, and practice.

You shall report at the time of each planting period on our form:

a. All the acreage of fall, winter and spring-planted tomatoes in the county in which you have a share;

b. The practice, including the bed size; and

c. Your share.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any tomato plantings in the county. This report must be submitted for each planting period on or before the reporting date established by the actuarial table for each planting period. All indemnities may be determined on the basis of information you submit on this report. If you do not submit this report by the reporting date, we may elect to determine by unit for each planting period the insured acreage, share, and practice or we may deny liability on any unit for any planting. Any report submitted by you may be revised only upon our approval.

4. Coverage levels and amounts of insurance.

a. The coverage levels and amounts of insurance are contained in the actuarial table.

b. Coverage level 2 will apply if you have not elected a coverage level.

c. You may change the coverage level and amount of insurance before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the amount of insurance, times the premium rate, times the insured acreage, times your share at the time of each planting, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE <sup>1</sup>

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year														
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14 or more
Percentage adjustment factor for current crop year															
Loss ratio <sup>2</sup> through previous crop year															
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year <sup>3</sup>														
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14 or more
Percentage adjustment factor for current crop year															
Loss ratio <sup>2</sup> through previous crop year															
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	125
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	293
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300
6.00 and up	100	100	120	136	156	180	202	224	246	268	290	300	300	300	300

<sup>1</sup> For premium adjustment purposes, only the years during which premiums were earned shall be considered.

<sup>2</sup> Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

<sup>3</sup> Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest will accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract will be transferred to:

(1) The contract of your estate or surviving spouse if you die;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium will be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a will be applicable.

#### 6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

#### 7. Insurance period.

Insurance attaches when the tomatoes are planted in each planting period and ends at the earliest of:

a. Total destruction of the tomatoes on the unit;

b. Discontinuance of harvest on the unit;

c. The date harvest should have started on the unit on any acreage which will not be harvested;

d. Final harvest; or

e. Final adjustment of a loss.

#### 8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) You want our consent to replant tomatoes damaged due to any insured cause, (To qualify for a replanting payment, the acreage replanted must be at least the lesser of 10 acres or 10 percent of the insured acreage sustaining a loss in excess of 50 percent of the plant stand on the unit);

(b) During the period before harvest, the tomatoes on any unit are damaged and you decide not to further care for or harvest any part of the tomatoes;

(c) You want our consent to put the acreage to another use; or

(d) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the tomatoes and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is replanted or put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined and you are going to claim an indemnity on any unit, notice must be given not later than 48 hours:

(a) After total destruction of the tomatoes on the unit;

(b) After discontinuance of harvest on the unit; or

(c) Before harvest would normally start if any acreage on the unit is not to be harvested.

b. You may not destroy or replant any of the tomatoes on which a replanting payment will be claimed until we give consent.

c. You must obtain written consent from us before you destroy any of the tomatoes which are not to be harvested.

d. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

#### 9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the tomatoes on the unit;

(2) Discontinuance of harvesting on the unit; or

(3) The date harvest should have started on the unit on any acreage which will not be harvested.

b. We will not pay any indemnity unless you:

(1) Establish the total production and the value received for all tomatoes on the unit and that any loss of production or value has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the amount of insurance times the percentage for the stage of production defined by the actuarial table;

(2) Subtracting therefrom the total value of production to be counted (see section 9e); and

(3) Multiplying this result by your share.

d. The indemnity will be reduced by the amount of any replanting payment.

e. The total value of production to be counted for a unit must include all harvested and appraised production.

(1) The total value will include any amount received for tomatoes on the unit minus the allowable cost as designated by the actuarial table.

(2) The value of appraised production to be counted will include:

(a) The value of unharvested production of mature green and ripener tomatoes with classification size of 7 x 7 (2½ inch minimum diameter) or larger and the value of the potential production lost due to uninsured causes and failure to follow recognized good tomato farming practices;

(b) Not less than the dollar amount of insurance per acre for any acreage abandoned or put to another use without prior written consent or damaged solely by an uninsured cause;

(c) The value of any appraised production of mature green and ripener tomatoes with classification size of 7 x 7 or larger on unharvested acreage.

(3) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage is:

(a) Not put to another use before harvest of tomatoes becomes general in the county for the planting period;

(b) Harvested; or

(c) Further damaged by an insured cause before the acreage is put to another use.

(4) We may determine the amount and value of production of any unharvested tomatoes on the basis of field appraisals conducted after the end of the insurance period.

(5) The value of unsold harvested or appraised production will be determined by multiplying such production by the simple average F.O.B. shipping point price per 25-pound carton (minus allowable cost as shown by the actuarial table), as reported by the Federal-State Market News Service, for the classification size, for the seven consecutive market days commencing the earlier of:

(a) The date harvest starts; or

(b) The date harvest could have started on any acreage which will not be harvested.

The price for such tomatoes will not be less than \$8.50 per 25-pound carton minus allowable cost shown by the actuarial table.

(6) When you have elected to exclude hail and fire as insured causes of loss and the tomatoes are damaged by hail or fire, appraisals for uninsured causes will be made in accordance with Form FCI-78-A, "Request to Exclude Hail and Fire".

(7) The value of commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. A replanting payment may be made on any insured tomatoes replanted after we have given consent and the acreage replanted is at least the lesser of 10 acres or 10 percent of the insured acreage sustaining a loss in excess of 50 percent of the plant stand for the unit.

(1) No replanting payment will be made on acreage on which a replanting payment has been made during the current crop year.

(2) The replanting payment per acre will be your actual cost per acre for replanting, but will not exceed the product obtained by multiplying \$175.00 per acre by your share.

g. If the information reported by you results in a lower premium than the actual premium determined to be due, the replanting payment and the indemnity will be reduced proportionately.

h. Any replanting payment will be considered as an indemnity.

i. You must not abandon any acreage to us.

j. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1509(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

k. We will pay the loss within 30 days after we reach agreement with you or entry of a

final judgment. In no instance will we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

1. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the tomatoes are planted for any crop year, any indemnity will be paid to the person(s) we determine to be beneficially entitled thereto.

m. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

#### 10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance will be effective as the beginning of the crop year with respect to which such act or omission occurred.

#### 11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

#### 12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

#### 13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

#### 14. Records and access to farm.

You must keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all tomatoes produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us will have access to such records and the farm for purposes related to the contract.

#### 15. Life of contract: cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and

may not be canceled for such crop year.

Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim will be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture will be the date both the payment under such other program and set off are approved.

d. The cancellation and termination dates are July 31.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, of dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

f. The contract will terminate if no premium is earned for five consecutive years.

#### 16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your amount of insurance at which indemnities are computed is no longer offered, the actuarial table will provide the amount of insurance which you are deemed to have elected. All contract changes will be available at your service office by April 30 preceding the cancellation date. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

#### 17. Meaning of terms.

For the purposes of tomato crop insurance:

a. "Acre" means 43,630 square feet of plastic mulch not more than 6 feet wide (6 foot bed) on which at least 7,260 linear feet row(s) are planted.

b. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the amount of insurance, coverage levels, premium rates, practices, insurable and uninsurable acreage, and related information regarding tomato insurance in the county.

c. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

d. "Crop year" means the period within which the tomatoes are normally grown

beginning August 1 and continuing through the harvesting of the spring-planted tomatoes and shall be designated by the calendar year in which the spring-planted tomatoes are normally harvested.

e. "Direct Consumer Marketing" means tomatoes which are grown for the purpose of selling directly to the consumer; and acreage which is not subject to an agreement between producer and packer to pack the production. (The producer-packer agreement must be made before you report your acreage.)

f. "Harvest" means the final picking of marketable tomatoes on the unit.

g. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

h. "Insured" means the person who submitted the application accepted by us.

i. "Mature green tomato" means a tomato which:

(1) Has heightened gloss because of the waxy skin that cannot be torn by scraping;

(2) Has well formed jelly-like substance in the locules;

(3) Has seeds that are sufficiently hard so they are pushed aside and not cut by a sharp knife in slicing; and

(4) Show no red color.

j. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

k. "Planting" means transplanting the tomato plants into the field or direct seeding in the field.

l. "Planting Period" means tomatoes planted within the dates specified by the actuarial table, as fall-planted, winter-planted or spring-planted.

m. "Plant Stand" means the number of live plants per acre before the plants were damaged due to insurable causes.

n. "Replanting" means performing the cultural practices necessary to replant insured acreage to tomatoes.

o. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

p. "Tenant" means a person who rents land from another person for a share of the tomatoes or a share of the proceeds therefrom.

q. "Unit" means all insurable acreage of tomatoes for each planting period in the county on the date of planting for the crop year.

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the tomatoes on such land will be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between you and us. Units as herein defined will be determined when the acreage is reported. Errors in reporting units

may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share or any other person having an interest therein.

#### 18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

#### 19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with FCIC's Appeal Regulations.

#### 20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Done in Washington, D.C., on July 11, 1984.

Diana Moslak,  
*Acting Secretary, Federal Crop Insurance Corporation.*

Dated: October 1, 1984.

Approved by:

Michael Bronson,  
*Acting Manager.*

[FR Doc. 84-20598 Filed 10-5-84; 8:45 am]

BILLING CODE 3410-08-M

## Packers and Stockyards Administration

### 9 CFR Parts 201 and 203

#### Regulations and Policy Statements; Addition of OMB Control Numbers Following Approval of Reporting and Recordkeeping Requirements

**AGENCY:** Packers and Stockyards Administration, USDA.

**ACTION:** Final rule—technical amendment.

**SUMMARY:** The Packers and Stockyards Administration, in accordance with the Paperwork Reduction Act of 1980, is adding to the regulations and policy statements the control numbers assigned by the Director of the Office of Management and Budget upon approval of the reporting and recordkeeping requirements.

**EFFECTIVE DATE:** October 9, 1984.

**FOR FURTHER INFORMATION CONTACT:** James L. Smith, Deputy Administrator, phone (202) 447-7063.

**SUPPLEMENTARY INFORMATION:** This action only adds Office of Management

and Budget control numbers to regulations and policy statements previously issued under the Packers and Stockyards Act, to comply with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), and does not impose any requirements on the affected public, therefore:

(a) It is not a "major rule" as in E.O. 12291 section 1(b);

(b) It will not have a significant economic impact on a substantial number of small entities as in 5 U.S.C. 605 (a copy shall be transmitted to the Chief Counsel for Advocacy of the Small Business Administration);

(c) Notice and public procedure on it are unnecessary as in 5 U.S.C. 553(b)(B) so notice of proposed rulemaking is not required by 5 U.S.C. 553(b); and

(d) Good cause is hereby found for making it effective in less than 30 days as in 5 U.S.C. 553(d)(3).

#### List of Subjects

##### 9 CFR Part 201

Reporting and recordkeeping requirements, Packers, Stockyards, Dealers and market agencies.

##### 9 CFR Part 203

Reporting and recordkeeping requirements, Packers, Stockyards, Dealers and market agencies.

Accordingly, Parts 201 and 203, Chapter II of Title 9 of the Code of Federal Regulations are amended as set forth below.

#### PART 201—[AMENDED]

1. Section 201.5 is amended by adding the following "(Approved by the Office of Management and Budget under control number 0590-0001)" at the end.

##### § 201.5 Investigation, notice, and posting of stockyards.

\* \* \* \* \*

(Approved by the Office of Management and Budget under control number 0590-0001)

2. Section 201.35 is amended by adding the following "(Approved by the Office of Management and Budget under control number 0590-0001)" at the end.

##### § 201.35 Letters of credit as bond equivalents.

\* \* \* \* \*

(Approved by the office of Management and Budget under control number 0590-0001)

3. Section 201.73-1 is amended by adding the following "(Approved by the Office of Management and Budget under control number 0590-0001)" at the end.

##### § 201.73-1 Instruction for weighing livestock.

\* \* \* \* \*

(Approved by the Office of Management and Budget under control number 0590-0001)

4. Section 201.97 is amended by adding the following "(Approved by the Office of Management and Budget under control number 0590-0001)" at the end.

##### § 201.97 Annual reports.

\* \* \* \* \*

(Approved by the Office of Management and Budget under control number 0590-0001)

5. Section 201.100 is amended by adding the following "(Approved by the Office of Management and Budget under control number 0590-0003)" at the end.

##### § 201.100 Records to be furnished poultry growers and sellers.

\* \* \* \* \*

(Approved by the Office of Management and Budget under control number 0590-0003)

6. Section 201.200 is amended by adding the following "(Approved by the Office of Management and Budget under control number 0590-0001)" at the end.

##### § 201.200 Sale of livestock to a packer on credit.

\* \* \* \* \*

(Approved by the Office of Management and Budget under control number 0590-0001)

#### PART 203—[AMENDED]

7. Section 203.14 is amended by adding the following "(Approved by the Office of Management and Budget under control number 0590-0001)" at the end.

##### § 203.14 Statement with respect to advertising allowances and other merchandising payments and services.

\* \* \* \* \*

(Approved by the Office of Management and Budget under control number 0590-0001)

8. Section 203.15 is amended by adding the following "(Approved by the Office of Management and Budget under control number 0590-0001)" at the end.

##### § 203.15 Trust benefits under section 206 of the Act.

\* \* \* \* \*

(Approved by the Office of Management and Budget under control number 0590-0001)

9. Section 203.16 is amended by adding the following "(Approved by the Office of Management and Budget under control number 0590-0001)" at the end.

##### § 203.16 Mailing of checks in payment for livestock purchased for slaughter, for cash and not on credit.

\* \* \* \* \*

(Approved by the Office of Management and Budget under control number 0590-0001)



(7 U.S.C. 222 and 228 and 15 U.S.C. 46)

Done at Washington, D.C., this 2nd day of October 1984.

B.H. (Bill) Jones,

Administrator, Packers and Stockyards Administration.

[FR Doc. 84-26584 Filed 10-5-84; 8:45 am]

BILLING CODE 3410-02-M

## Animal and Plant Health Inspection Service

### 9 CFR Part 81

[Docket No. 84-091]

### Lethal Avian Influenza; Interim Rule

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Interim Rule.

**SUMMARY:** This document amends the Lethal Avian Influenza interim rule by adding as a quarantined area one premises in Franklin County in Pennsylvania, and by deleting from quarantined area status all of the previously quarantined area in Pennsylvania except for two premises in Berks County and four premises in Lancaster County. The interim rule imposes prohibitions and restrictions on the interstate movement from quarantined areas of live poultry, poultry eggs, and certain other items. It is necessary to add the premises in Franklin County in Pennsylvania as a quarantined area for the purpose of helping to prevent the spread of lethal avian influenza. However, it is no longer necessary for such purpose to include as quarantined areas the areas deleted from quarantined area status.

**DATES:** Effective date is October 4, 1984. Written comments must be received on or before December 10, 1984.

**ADDRESS:** Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

**FOR FURTHER INFORMATION CONTACT:** Dr. H. A. McDaniel, Chief Staff Officer, Technical Support Staff, VS, APHIS, USDA, Room 757, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8087.

### SUPPLEMENTARY INFORMATION:

#### Background

This document amends the "Lethal Avian Influenza" interim rule which is

set forth in 9 CFR Part 81 (48 FR 51422-51423, 51798, 52420-52427, 52885-52887, 53586, 53678-53679, 53679-53681, 53997, 54574-54575, 55402-55405, 55722, 57474-57475, 49 FR 363-369, 2742-2744, 3494, 3839-3845, 5723-5724, 7978-7979, 8412-8415, 8582-8583, 13863-13864, 19288-19289, 19500-19501, 24011-24013, 31055-31057, 34804-34806, 36630-36631).

Among other things, the interim rule designates a portion of Pennsylvania as a quarantined area and prohibits or restricts certain interstate movements from the quarantined area of live poultry, poultry eggs, and certain other items because of lethal avian influenza.

Lethal avian influenza is defined as a disease of poultry caused by any form of H5 influenza virus that is determined by the Deputy Administrator to have spread from the 1983 outbreak in poultry in Pennsylvania.

#### Effect of Designation as a Quarantined Area

With certain exceptions, the interim rule provides that the following articles designated as prohibited articles are prohibited from being moved interstate from a quarantined area:

- (1) Live poultry,
- (2) Manure from poultry, and
- (3) Litter that has been used by

poultry.

The interim rule also provides, with certain exceptions, that the following articles designated as restricted articles are allowed to be moved interstate from a quarantined area only in accordance with certain conditions:

- (1) Poultry carcasses or parts thereof,
- (2) Eggs from poultry, and
- (3) Coops, containers, troughs or other

accessories that have been used in the handling of poultry or poultry eggs.

#### Reduction of Quarantined Area in Pennsylvania

Prior to the effective date of this document, the quarantined area in Pennsylvania was described as:

The following area in Berks, Chester, Dauphin, Lancaster, Lebanon, and Schuylkill Counties is designated as a quarantined area: That portion of Pennsylvania beginning at the intersection of the eastern bank of the Susquehanna River with the Pennsylvania-Maryland State Line; then northwesterly along the eastern bank of the Susquehanna River to its intersection with Interstate Highway 83; then east and north along Interstate Highway 83 to its intersection with Interstate Highway 81; then west along Interstate Highway 81 to its intersection with the Susquehanna River; then northwesterly along the Susquehanna River to its intersection with PA Highway 325; then northeasterly along PA Highway 325 to its intersection with U.S. Highway 209; then northeasterly along U.S. Highway 209 to its

intersection with PA Highway 61; then southeasterly along PA Highway 61 to its intersection with Interstate Highway 78; then northeasterly along Interstate Highway 78 to its intersection with the Berks-Lehigh County Line; then southeasterly along the Berks-Lehigh County Line to its intersection with the Berks-Montgomery County Line; then southwesterly along the Berks-Montgomery County Line to its intersection with U.S. Highway 422; then southeasterly along U.S. Highway 422 to its intersection with PA Highway 100; then southerly along PA Highway 100 to its intersection with the Pennsylvania-Delaware State Line; then southwesterly along the Pennsylvania-Delaware State Line to its intersection with the Pennsylvania-Maryland State Line; then westerly along the Pennsylvania-Maryland State Line to its intersection with the Susquehanna River.

This document adds as a quarantined area one premises in Franklin County in Pennsylvania and deletes from quarantined area status all of the previously quarantined area in Pennsylvania except for two premises in Berks County and four premises in Lancaster County. The seven premises that are designated as quarantined areas are set forth in the rule portion of this document. With these changes no portions of Chester, Dauphin, Lebanon, and Schuylkill Counties remain designated as quarantined areas.

The poultry on all previously infected premises in the areas removed from quarantined area status were depopulated. Also, all of such previously infected premises have been cleaned and disinfected, and sufficient time has elapsed to ensure that such premises are free of lethal avian influenza virus. Further, extensive surveys conducted on all commercial poultry and a substantial portion of the backyard flocks in these areas removed from quarantined area status indicate no lethal avian influenza virus or poultry with the antibodies exist in these areas.

The one premises added as a quarantined area and the six premises that retain quarantined area status had poultry that were found to be serologically positive for lethal avian influenza. The poultry from these premises have been depopulated. No poultry remain on these premises and some of the premises have been cleaned and disinfected. However, sufficient time has not elapsed to ensure that any of these premises are free of lethal avian influenza virus.

Under the circumstances explained above, it has been determined that it is only necessary to impose prohibitions or restrictions because of lethal avian influenza on the movement of live poultry or other items from the seven

premises designated as quarantined areas, and it is no longer necessary to impose such prohibitions or restrictions with respect to the areas deleted from quarantined area status.

#### Emergency Action

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. Immediate action is warranted in order to add prohibitions and restrictions on the movement of live poultry and certain other items from one premises in Franklin County in Pennsylvania, and thereby protect against the spread of lethal avian influenza. Also, immediate action is warranted in order to delete unnecessary prohibitions and restrictions on the movement of live poultry and certain other items from portions of Berks, Chester, Dauphin, Lancaster, Lebanon, and Schuylkill Counties in Pennsylvania.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective upon signature. Comments are solicited for 60 days after publication of this document. A final document discussing comments received and any amendments required will be published in the Federal Register.

#### Executive Order and Regulatory Flexibility Act

This action has been reviewed in accordance with Executive Order 12291 and has been determined to be not a major rule. The Department has determined that this action will not have a significant effect on the economy and will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

The portion of the poultry industry affected by this document represents

less than one percent of the poultry industry in the United States.

Under the Circumstances explained above, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

#### List of Subjects in 9 CFR Part 81

Animal diseases, Poultry and poultry products, Transportation.

#### PART 81—LETHAL AVIAN INFLUENZA

Accordingly, § 81.4 of 9 CFR Part 81 is revised to read as follows:

##### § 81.4 Quarantined area.

Pennsylvania

(a) *Berks County.*

(1) The premises of Fred Wright, RD #1, Box 100, Richland, PA 17087, located in Bethel Township approximately 2½ miles south of Bethel on Bordner Road.

(2) The premises of Fred Wright, RD#1, Box 100, Richland, PA 17087, located in Bethel Township approximately 2½ miles northwest of Bethel on Schubert Road.

(b) *Franklin County.* The premises of Dwight Martin, 8933 Rowe Run Road, Schippensburg, PA 17257, located in South Hampton Township in Pinola at the junction of State Route 433 and Pinola Road.

(c) *Lancaster County.*

(1) The premises of Harold Dice, RD #1, Box 125, Fredricksburg, PA 17026 located in Bethel Township approximately 5½ miles west of Fredricksburg on Legionaire Road (T 510).

(2) The premises of Nelson Frey, RD #3, Box 192, Willow Street, PA 17584, located in Pequea Township approximately 1 mile south of West Willow on Millwood Road.

(3) The premises of Luke Hess, Box 52, Willow Street, PA 17257, located in Pequea Township approximately 2 miles south of West Willow on Byerland Church Road.

(4) The premises of Alan and Charles Rohrer, RD #1, Strasburg Road, Paradise, PA 17562, located in Paradise Township approximately 2¼ miles west of Strasburg on PA State Route 741 (Strasburg Road).

Authority: Sec. 2, 23 Stat. 31, as amended; secs. 4-8, 23 Stat. 31-33, as amended; secs. 1-3, 32 Stat. 791, 792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; 41 Stat. 699; sec. 2, 65 Stat. 693; secs. 2-3, 5-6 and 11, 76 Stat. 129-132; 76 Stat. 663, 7 U.S.C. 450, 21 U.S.C. 111-113, 114a-1, 115-117, 119-126, 130, 134a 134b, 134d, 134e, 134f; 7 CFR 2.17, 2.51, and 371.2(d)

Done at Washington, D.C., this 4th day of October, 1984.

J.K. Atwell,

*Deputy Administrator, Veterinary Services.*

[FR Doc. 84-26697 Filed 10-4-84; 12:23 pm]

BILLING CODE 3410-34-M

#### FARM CREDIT ADMINISTRATION

##### 12 CFR Part 615

**Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Effective Date**

**AGENCY:** Farm Credit Administration.

**ACTION:** Notice of effective date.

**SUMMARY:** The Farm Credit Administration published final regulations amending its regulations concerning discount notes issued by the Farm Credit System ("System") (49 FR 29211, July 19, 1984). The amendments permit the System to issue consolidated Systemwide notes in book-entry form or in definitive form under special circumstances where approved by the System Finance Committees or their subcommittees and approved and executed by the Governor of the Farm Credit Administration. As was indicated in the "EFFECTIVE DATES" portion of the final rules published on July 19, this document announces the effective date of those rules.

**EFFECTIVE DATE:** September 27, 1984.

**FOR FURTHER INFORMATION CONTACT:**

Michael C. Salapka, Finance and Operations Division, (703) 883-4014 or

Kenneth L. Peoples, Office of General Counsel, (703) 883-4024.

(Secs. 5.9, 5.12, 5.18, Pub. L. 92-181, 85 Stat. 619, 620, 621, as amended (12 U.S.C. 2243, 2246, and 2252))

Donald E. Wilkinson,  
*Governor.*

[FR Doc. 84-23927 Filed 10-5-84; 8:45 am]

BILLING CODE 6705-01-M

#### COMMODITY FUTURES TRADING COMMISSION

##### 17 CFR Parts 1, 3, 140, and 145

**Minimum Financial and Related Reporting Requirements; Registration Requirements; Transfer of Certain Registration Functions to the National Futures Association**

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rules.



**SUMMARY:** By separate release published elsewhere in this Federal Register, the Commodity Futures Trading Commission ("Commission") is authorizing the National Futures Association ("NFA") to perform, on behalf of the Commission, certain registration functions concerning futures commission merchants ("FCMs"), commodity trading advisors ("CTAs"), commodity pool operators ("CPOs") and the associated persons ("APs") of such registrants. Specifically, NFA now is being authorized to process and grant, where appropriate, applications for initial and renewed registration with the Commission for those categories of registrant in accordance with the standards established by the Commodity Exchange Act ("Act") and the regulations thereunder. However, NFA is not authorized to grant conditional registration, to deny registration or to take any other adverse action concerning registration until the Commission has adopted its own regulations and procedures to review such actions. Nor is NFA authorized to accept or act upon requests for exemption from registration or for "no-action" positions with respect to the applicable registration requirements.

The Commission has previously approved rules of NFA under which NFA will administer the Commission's registration functions and, in connection therewith, the Commission now has adopted amendments to its own regulations governing minimum financial and related reporting requirements and registration procedures to reflect this transfer of registration functions.

**EFFECTIVE DATE:** The effective date will be 15 days after further notice is published in the Federal Register. The second notice shall be published in the Federal Register no earlier than thirty days from the date of this publication.

**FOR FURTHER INFORMATION CONTACT:** Kevin M. Foley, Chief Counsel, or Lawrence B. Patent, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8955.

#### **SUPPLEMENTARY INFORMATION:**

##### **Introduction**

The Commission has previously authorized NFA, pursuant to section 8a(10) of the Act, to perform various portions of the Commission's registration functions and responsibilities under the Act. For example, on August 3, 1983, the Commission issued an order authorizing

NFA to process and, where appropriate, to grant registration to applicants for registration as an introducing broker ("IB") or as an AP of an IB.<sup>1</sup> In addition, on March 5, 1984, in order to facilitate the implementation of the Commission's rules pursuant to which temporary licenses may be issued to qualified applicants for registration in the various associated person categories, the Commission authorized NFA to perform the registration processing functions related to the issuance of such licenses to AP applicants in all categories (other than APs of IBs) whose registration applications are submitted to the Commission in accordance with the rules adopted by the Commission. The Commission concurrently authorized NFA to process and issue temporary licenses to applicants for registration as APs of IBs.<sup>2</sup>

NFA has made a commitment to the Commission to assume, no later than December 31, 1984, the responsibility to process, and where appropriate, grant applications for registration of FCMs, CPOs, CTAs and the APs of such registrants, including the issuance of temporary licenses to qualified APs of FCMs, CPOs and CTAs. Based upon the Commission's review of NFA's plans for assuming and implementing such additional responsibilities, the Commission has determined to authorize NFA to assume certain registration functions with respect to these applicants. Thus, the Commission is simultaneously publishing, as a separate Federal Register release, a Notice and Order to authorize NFA, no later than December 31, 1984, to process and, in appropriate cases, grant registration applications for FCMs, CPOs, CTAs, and the APs of those categories of registrant and to issue temporary licenses to qualified APs in accordance with the standards established under the Act and the Commission's regulations thereunder.<sup>3</sup> This authorization is fully consistent with Congress' intent "to promote the evolution of self-regulation in the commodities industry and to permit the Commission to move to an oversight

role in connection with the registration of commodity professionals."<sup>4</sup>

The rules which the Commission has now adopted are technical and conforming amendments to the existing rules contained Parts 1, 3, 140 and 145 of its regulations. The amendments are designed to furnish applicants and registrants with specific instructions on where to file registration applications, financial reports and other related documents. Specifically, the rules have been amended to provide that certain documents related to the activities and operations of FCMs, CPOs and CTAs, and the APs of such registrants are now to be filed with NFA instead of the Commission. As discussed below, however, copies of such documents also must be filed directly with the Commission in certain instances.

##### **Part 1: Financial and Reporting Requirements**

All applicants for registration as either FCMs or introducing brokers are required to demonstrate compliance with the Commission's basic minimum adjusted net capital requirements for such entities as a condition of registration by filing a certified financial report. Section 1.10(a)(2).<sup>5</sup> The Commission's rules currently provide that an applicant for registration as an FCM must file this report with the Commission together with the application. The certified financial report required to be filed by an applicant for registration as an introducing broker, on the other hand, must be filed with NFA, as well as with the appropriate regional office of the Commission.<sup>6</sup> Section 1.10(c). In connection with its authorization of NFA to receive and process applications for registration as an FCM, the Commission is now amending the financial filing requirements for applicants for registration as FCMs to comport more fully with the procedures already established by the Commission for IBs. Thus, the certified financial report accompanying an initial application for registration as an FCM must now be filed with NFA and the

<sup>1</sup> 48 FR 35158 (August 3, 1983).

<sup>2</sup> 49 FR 8226 (March 5, 1984).

<sup>3</sup> The Commission will have authority under section 17(o)(3) of the Act to review the granting of any registration by NFA and to initiate such action as may be appropriate. The granting of registration with the Commission shall not constitute a legal defense to any Commission action with respect to such registration. In addition, the Commission will continue to have direct registration responsibility with respect to floor brokers, leverage transaction merchants and associated persons of leverage transaction merchants.

<sup>4</sup> S. Rep. No. 384, 97th Cong., 2d Sess. 109 (1982).

<sup>5</sup> 17 CFR 1.10(a)(2) (1984), as amended herein. The Form 1-FR is the standard financial reporting form for FCMs and IBs. Section 1.10(d).

<sup>6</sup> For the purposes of Part 1 of the Commission's regulations, the appropriate regional office of the Commission is generally the regional office nearest the principal place of business of an applicant or registrant, except that an applicant or registrant under the jurisdiction of the Commission's Western Regional Office must file its financial reports with the Southwestern Regional Office in Kansas City, Missouri. See also Section 140.2.

appropriate regional office of the Commission.

No changes have been made, however, with respect to the rules governing the filing of financial reports for FCMs and IBs once registration has been granted. Thus, with certain exceptions, each registered FCM and IB must file its financial reports with the appropriate regional office of the Commission and with the designated self-regulatory organization ("DSRO"). Section 1.10(c).<sup>7</sup>

The Commission is also adopting various other technical and conforming changes to Part 1 in connection with this delegation of authority to NFA. For example, rule 1.10(b)(4) has been amended to grant NFA the authority to request supplemental financial information on a Form 1-FR from any applicant or registrant which is an FCM or IB, and rule 1.10(e) has been amended to require applicants wishing to

establish a fiscal year other than a calendar year to notify NFA of its election of such fiscal year with a copy of the notice to be filed with the appropriate regional office of the Commission.

The Commission also has amended the financial early warning system for FCMs contained in rule 1.12 to provide that, in the case of an applicant, any notices and reports which it is required to file pursuant to that rule should also be sent to NFA. Paragraph (g) of rule 1.12 has been amended to make clear that for purposes of rule 1.12, an applicant or registrant under the jurisdiction of the Commission's Western Regional Office must file such notices and reports with the Southwestern Regional Office. Finally, the Commission has determined to delete paragraph (h). Rule 1.12(h) contained a delegation of authority to the Division of Trading and Markets relating to the furnishing of information to other government agencies and designated self-regulatory organizations concerning a firm's failure to maintain adequate capital or of any activities which might adversely affect market integrity, discovered through the early warning system. The Commission believes that rule 1.12(h) is no longer necessary since the delegation of authority to disclose such information is already contained within the broader authority set forth in existing rules 140.72 and 140.73.

Rule 1.16(f) sets forth the procedures to be followed by an FCM or IB in requesting an extension of time for filing audited reports. In this connection, the Commission is deleting the phrase "or applicant" from paragraph (f) to make clear that an extension of time for filing an audited report will be granted only to a registrant. This change is consistent with the Commission's practice of refusing to grant an extension of time to an applicant pursuant to rule 1.16(f). Rather, until the required certified financial reports of an applicant firm are submitted, the Commission simply considers the application to be incomplete. Rule 1.16(g), which sets forth the notice procedures in the event an accountant is replaced, has been amended to provide that any notice required pursuant to that rule with

respect to an applicant must be filed with NFA.<sup>8</sup>

The minimum amount of adjusted net capital which an FCM or an IB not operating pursuant to a guarantee agreement must maintain is set forth in rule 1.17(a) (1) and (2). In order for an FCM or IB to compute its actual adjusted net capital and thus determine whether it is complying with the minimum adjusted net capital requirement, the FCM or IB must follow the procedures set forth in the remainder of rule 1.17. In this connection, it should be noted that the Commission's rules, as amended, will require an applicant for registration as an FCM or IB to demonstrate affirmatively to the satisfaction of NFA that it is in compliance with the Commission's financial requirements. Section 1.17(a)(3). Similar changes have been made to rule 1.17(f)(2)(ii) respecting the consolidation of any subsidiaries or affiliates which are majority owned or controlled by an applicant or registrant. In addition, certain related changes have been made to rule 1.17 relating to those provisions governing subordination agreements.<sup>9</sup> Again, these changes make clear that, in the case of an applicant, all notices and filings required with respect to those provisions are to be sent to NFA; all notices and filing requirements with respect to registrants remain unchanged.

Finally, the Commission has amended rule 1.18 to require applicants for registration as an FCM or IB to permit representatives of NFA to inspect the financial reporting and monthly capital computation records required to be maintained pursuant to the Commission's minimum financial rules.

<sup>8</sup>Rule 1.16 similarly has been amended to make clear where the notices required by that rule must be sent in the event the independent public accountant, during the course of an audit or interim work, determines that any material inadequacies exist with respect to the financial accounting system and controls of an applicant for registration as an FCM or IB. The changes essentially provide that notice of any such material inadequacies must be provided to NFA.

<sup>9</sup>The Commission notes, however, that it is retaining at this time the exclusive authority to grant or deny exemption requests pertaining to those provisions governing the debt-equity ratio and the withdrawal of equity capital set forth in rule 1.17 (d) and (e).

<sup>7</sup>Generally, a registered FCM or IB is required to file financial reports on Commission Form 1-FR (although an FCM or IB which is also a securities broker or dealer may file a copy of its Financial and Operational Combined Uniform Single Report (FOCUS Report), Part II or Part IIA, in lieu of Form 1-FR) on a quarterly basis, with the report filed as of the firm's fiscal year-end certified by an independent public accountant. A firm need only file financial reports on a semi-annual basis, however, if the firm's DSRO so permits. See Section 1.52(a). An IB which is party to a guarantee agreement with an FCM has no further financial reporting requirements once the guarantee agreement is properly filed with NFA and with the appropriate office of the Commission, unless the firm is also a securities broker or dealer.

The Commission's rules allow any introducing broker which is a party to a guarantee agreement (as defined in § 1.3(nn)) to satisfy the minimum net capital requirement for introducing brokers solely by entering into such an agreement. In essence, the guarantee agreement provides that the FCM which is a party to the agreement will guarantee performance by the introducing broker of, and will be jointly and severally liable for, obligations of the IB under the Act and the rules, regulations and orders thereunder. As such, the guarantee agreement is an alternative means for an IB to satisfy the Commission's standards of financial responsibility for its activities as an introducing broker. An introducing broker operating pursuant to a guarantee agreement with an FCM (unless the firm is also a securities broker or dealer) is exempt from the financial reporting requirements of § 1.10, the requirements for notification of material inadequacy in the accounting system contained in § 1.12, the requirements pertaining to qualifications and reports of independent public accountants in § 1.16, and the financial recordkeeping requirements of § 1.18.

The various financial filing requirements for a futures commission

merchant or an introducing broker, or an applicant for registration in either

capacity, are summarized in the following chart:

FINANCIAL FILING REQUIREMENTS FOR FCMs AND IBs <sup>1/</sup>

Rule	1.10(a) & (b) — Financial Reports	1.10(e) — Election of fiscal year and option to file reports by calendar rather than fiscal quarter	1.10(e) — Change in election of fiscal year and option to file reports by calendar rather than fiscal quarter	1.10(f) — Extension of time for non-audited reports	1.12 — Early warning system notices <sup>2/</sup>	1.16(c)(2) — Accountant's reporting of material inadequacies if firm fails to or accountant disagrees	1.16(f) — Extension of time for filing audited reports	1.16(g) — Replacement of accountant notice
Applicant	NFA, with a copy to appropriate CFTC Regional Office	NFA, with a copy to appropriate CFTC Regional Office	_____	NFA, with a copy to appropriate CFTC Regional Office	NFA, with a copy to appropriate CFTC Regional Office	NFA	_____	NFA
Registrant	DSRO, if any, with a copy to appropriate CFTC Regional Office	_____	CFTC Washington Office, with a copy to DSRO, if any	CFTC Washington Office, with a copy to DSRO, if any	DSRO, if any, with a copy to appropriate CFTC Regional Office	CFTC Washington Office, with a copy to DSRO, if any	CFTC Washington Office, with a copy to DSRO, if any	CFTC Washington Office, with a copy to DSRO, if any
Rule	1.17(d) — Application for exemption from debt-equity requirement	1.17(e) — Application for exemption from restriction on withdrawal of equity capital	1.17(f) — Opinion of counsel with respect to consolidation of financial statements	1.17(h)(2)(vi) — Notice of under-collateralization of secured demand note <sup>3/</sup>	1.17(h)(2)(vii) — Request for permissive prepayment and special prepayment of subordinated debt	1.17(h)(2)(ix) & (x) — Accelerated maturity of subordination agreements on notice of lender or on event of default or event of acceleration	1.17(h)(3)(ii) — Notice of maturity or accelerated maturity of subordinated debt	1.17(h)(3)(vi) — Filing of subordination agreements
Applicant	CFTC Washington Office	CFTC Washington Office	NFA	Lender and NFA	NFA (prior written approval required)	Applicant and NFA	NFA	NFA, with a copy to appropriate CFTC Regional Office (prior written approval of NFA required)
Registrant	CFTC Washington Office	CFTC Washington Office	CFTC Washington Office, with a copy to DSRO, if any	Lender, DSRO, if any, and CFTC Washington Office	CFTC Washington Office, with a copy to DSRO, if any (prior written approval of CFTC and DSRO required)	Registrant and DSRO, unless registrant has no DSRO, in which case the CFTC Washington Office	DSRO, if any, with a copy to CFTC Washington Office	DSRO, if any, with two copies to CFTC Wash. Office (prior written approval of DSRO only required; if no DSRO, then CFTC)

<sup>1/</sup> An IB operating pursuant to a guarantee agreement with an FCM has no further financial filing requirements after filing the agreement with NFA, with a copy to the appropriate CFTC Regional Office, unless the IB is also a securities broker-dealer.

<sup>2/</sup> An FCM must file a notice relating to failure to meet a margin call or to make other required deposits with the CFTC Washington Office (Rule 1.12(f)); a firm which is also a securities broker-dealer must also file a copy of any early warning notice with the SEC; and an IB or applicant therefor must also file a copy of any early warning notice with every FCM carrying or intending to carry accounts for the IB's customers.

<sup>3/</sup> To reduce the unpaid principal amount of the secured demand note, the lender must have the borrower's prior written consent, as well as NFA's prior written consent if the borrower is an applicant, or the DSRO's prior written consent if the borrower is a registrant, unless the registrant has no DSRO, in which case the Commission's prior written consent is required.

### Part 3: Registration Requirements

In connection with the authorization of NFA to receive and process applications for registration filed by FCMs, CTAs, CPOs and the APs of those three categories of registrant, rule 3.2 of the Commission's regulations has been amended to indicate specifically that NFA will, except as otherwise indicated, have the responsibility that would otherwise be exercised by the Commission with respect to these registration categories. For convenience of reference, a number of the Commission's other regulations contained in Part 3 similarly have been amended to make specific reference to

NFA.<sup>10</sup> In particular, those rules which establish procedures for the registration of FCMs, CTAs, CPOs and the APs of those registrants have been modified to require the filing of applications for registration and related materials with NFA rather than with the Commission. It should be noted, however, that, at least for the time being, the Commission is retaining the exclusive authority to grant or deny exemption requests pertaining to the registration requirements. In addition, the Commission continues to have exclusive authority to deny, condition or otherwise affect

<sup>10</sup> See §§ 3.10, 3.11, 3.12, 3.13, 3.14, 3.15, 3.16, 3.17, 3.22, 3.30, 3.31, 3.32, 3.33, 3.40.

registration pursuant to section 8a(2)–8a(4) of the Act, 7 U.S.C. 12a(2)–12a(4) (1982), and the regulations thereunder.

The Commission has also amended certain other portions of the Part 3 registration rules. For example, the Commission has amended the term "current" as defined in rule 3.1(b) to eliminate the distinction which previously had been drawn between applications filed before July 1, 1982 and those filed after that date. Since July 1, 1984, when the last of the former two-year AP registrations terminated, such a distinction is no longer relevant. Similarly, the Commission has amended rule 3.3 to delete those paragraphs

which formerly established the registration fees for those categories of registrant for which NFA will now have registration processing responsibility. As is already the case for introducing brokers and their APs, NFA will have the authority, subject to Commission review and approval, to establish registration application fees for FCMs, CPOs as CTAs, and well as the APs of those categories of registrant. In this regard, NFA's rules, as previously approved by the Commission, require that each application for registration as an AP in any capacity (Form 8-R) be accompanied by a fee of \$30. Appendix A, § 1(e) under Bylaw 305.

The Commission has also made a minor clarifying change to rule 3.12(f). In this connection, the Commission's staff has received a number of inquiries requesting clarification concerning the impact of rule 3.12(f) on the activities of an AP who wishes to be associated simultaneously as an AP with more than one registrant. In order to provide further guidance to the public concerning the operation of rule 3.12(f), the Commission's staff recently published an interpretative letter which sets forth in detail the scope of that rule.<sup>11</sup> Consistent with the interpretation contained in that letter, the Commission has added a proviso to paragraphs (f)(4), (f)(6), (f)(8) and (f)(10) to make explicit that each of those paragraphs is subject to the provisions of paragraphs (f)(3), (f)(5), (f)(7) and (f)(9), respectively.<sup>12</sup>

<sup>11</sup> See CFTC Interpretative Letter No. 83-11 [1982-1984 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶21,952.

<sup>12</sup> For example, an FCM which carries or introduces all of the accounts of clients of a CTA or of a commodity pool operated by a CPO recommended by the FCM through its AP clearly falls within the provisos of rule 3.12(f) (3) and (5). Those provisos were intended to cover APs of an FCM who recommended a CTA and the FCM's "approved list," or who solicit commodity pool

As a related matter, the Commission also has amended rule 3.4 to make clear that an AP who is sponsored by a registrant, which itself is registered in more than one capacity, need register only once to act as an AP of the registrant. In such a case, the Commission shall automatically deem the individual to be associated with the sponsoring registrant in each capacity in which the sponsor is registered. For example, a corporation may be registered simultaneously with the Commission as both a CTA and CPO. Under rule 3.4, as amended, an individual who is already registered as an AP of the CTA need not file a new registration application in order to function in the capacity of an AP of the CPO since the CTA and CPO are the same entity. The filing of an additional registration in such an instance would serve no meaningful function since the sponsoring registrant is already responsible for supervising the commodity-related activities of such individual.<sup>13</sup>

Finally, it should be noted that although the Commission, at least for the time being, is retaining the exclusive authority to permit a registrant to withdraw from registration pursuant to rule 3.33, that rule has been amended to provide that if the registrant requesting withdrawal is an FCM, IB, CTA or CPO,

participations on behalf of an FCM. In these cases, the FCM ordinarily both solicits and carries or introduces the accounts in question. The amendments to rule 3.12(f) made herein will clarify and make explicit that the provisions of paragraphs (f)(4) and (f)(6) of rule 3.12 are subject to the provisions of paragraphs (f)(3) and (f)(5), respectively. In such cases, the AP of an FCM may act on behalf of the CTA or the CPO without violating the prohibitions of rule 3.12 (f)(4) and (f)(6) since that AP is deemed to be associated solely with the FCM.

<sup>13</sup> See rule 166.3, 17 CFR 166.3 (1984) as amended by 48 FR 35304 (August 3, 1984).

a copy of the request should be filed simultaneously with NFA.

The filing requirements under Part 3 of the Commission's regulations, as

amended, are summarized in the following chart:

#### REGISTRATION FILING REQUIREMENTS

Category of Registrant	Registration Application	Transfer of Registration	Change of Information	Change of Control	Withdrawal from Registration	Exemption Requests
Floor Broker	CFTC (Rule 3.11)	_____	CFTC (Rule 3.31)	_____	CFTC (Rule 3.33)	_____
Futures Commission Merchant, Introducing Broker, Commodity Pool Operator, Commodity Trading Advisor	NFA  (Rules 3.10, 3.13, 3.14 & 3.15)	_____	NFA  (Rule 3.31)	NFA  (Rule 3.32)	CFTC, with a copy to NFA  (Rule 3.33)	CFTC  (Rule 3.32(i))
Associated Person of Futures Commission Merchant, Introducing Broker, Commodity Pool Operator, Commodity Trading Advisor	NFA  (Rules 3.12(c) & 3.16(c))	NFA  (Rules 3.12(d) & 3.16(d))	NFA  (Rule 3.31)	_____	_____	CFTC  (Rules 3.12(g) & 3.16(g))
Leverage Transaction Merchant	CFTC (Rule 3.17)	_____	CFTC (Rule 3.31)	CFTC (Rule 3.32)	CFTC (Rule 3.33)	CFTC (Rule 3.32(i))
Associated Person of Leverage Transaction Merchant	CFTC (Rule 3.18(c))	CFTC (Rule 3.18(d))	CFTC (Rule 3.31)	_____	_____	CFTC (Rule 3.18(g))

#### Other Amendments

The Commission also has adopted two additional technical amendments to its regulations. First, it has amended rule 140.2, which describes the Commission's regional offices, to reflect the realignment of the regions effected in the Fall of 1983. Specifically, Minnesota, North Dakota and South Dakota were transferred from the Central Region to the Southwestern Region. Thus, all applicant and registrant firms whose headquarters are located west of the Mississippi River must file all financial reports required to be filed pursuant to the Commission's rules with the

Southwestern Regional Office in Kansas City, Missouri.

Second, rule 145.6(b), regarding the location of and public availability of Commission registration forms, has been amended to reflect the planned transfer of current registration functions with respect to FCMs, CTAs, CPOs and the APs of these registrants to NFA, including physical custody of registration forms filed by current and future applicants and registrants. In addition, the item numbers, the supplementary attachments filed in response to which are not available to public inspection, have been changed to correspond to the appropriate items in

the registration forms as revised in March 1984. No change has been made, however, in the type of information which generally will not be made available.

In connection with the transfer of its registration functions with respect to FCMs, CTAs, CPOs and the APs of such registrants to NFA, the Commission has authorized NFA to make available to the public for inspection and copying the publicly available portions of all registration forms compiled or maintained by NFA in connection with its performance of registration functions under the Act. Thus, any person seeking to inspect or copy the publicly available

portions of such registration forms should contact NFA directly. A formal request pursuant to the Freedom of Information Act is not necessary to obtain such information.<sup>14</sup>

#### Basis for Adoption as Final Rules

Section 553(b) of the Administrative Procedure Act, 5 U.S.C. 553(b), ordinarily requires that notice of proposed rulemaking be published in the Federal Register and that opportunity for public comment be provided when an agency promulgates new rules. Section 553(b)(A), however, provides an exception to this requirement for "rules of agency organization, procedure and practice." Section 553(b)(B) also provides such an exception:

when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

As previously discussed, these amendments adopted to Parts 1, 3, 140 and 145 are technical and procedural in nature, relating primarily to the filing requirements of applicants and registrants. They do not change in any respect the obligations of applicants and registrants under the Act and the regulations thereunder. As a result, the Commission finds that these rule amendments do not raise any substantive issues for which notice and public comment are necessary. At the same time, however, the Commission notes that these amendments will not take effect for at least thirty days. Therefore, the Commission will consider any comments which may be received and make any additional changes to these rules which may be appropriate.

#### Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider their impact on small entities. Section 3(a) of the RFA defines the term "rule" to mean "any rule for which the agency publishes a general notice of proposed rulemaking pursuant to section 553(b) \* \* \* for which the agency provides an opportunity for notice and public comment." Since adoption of the amendments has not been effected with notice and public comment, those amendments do not constitute "rule" amendments for purposes of the RFA.

<sup>14</sup>With respect to requests for information which the Commission has determined is not publicly available, rule 145.6(b) continues to provide that the Commission's FOI, Privacy and Sunshine Acts compliance staff will decide any request for access in accordance with the procedures set forth in rules 145.7 and 145.9.

and the analyses or certification specified by the RFA is not required.

#### List of Subjects

##### 17 CFR Part 1

Financial requirements, Reporting and recordkeeping requirements, Registration requirements.

##### 17 CFR Part 3

Registration requirements, Authority delegations, Fingerprinting, Associated persons, Futures commission merchants, Commodity trading advisors, Commodity pool operators.

##### 17 CFR Part 140

Organization of the Commission, Region offices, Regional directors.

##### 17 CFR Part 145

Records, Freedom of Information Act.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 2(a)(1), 4c, 4d, 4e, 4f, 4k, 4m, 4n, 4p, 8, 8a and 19, 7 U.S.C. 2 and 4, 6c, 6d, 6e, 6f, 6k, 6m, 6n, 6p, 12, 12a and 23 (1982), and pursuant to the authority contained in 5 U.S.C. 552 and 552b, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

#### PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. Section 1.10 is amended by revising paragraphs (a)(3)(i), (b)(4), (c), (e), (f), and (g)(4) to read as follows:

##### § 1.10 Financial reports of futures commission merchants and introducing brokers.

(a) \* \* \*

(3)(i) The provisions of paragraph (a)(2) of this section do not apply to any person succeeding to and continuing the business of another futures commission merchant. Each such person who files an application for registration as a futures commission merchant and who is not so registered in that capacity at the time of such filing must file a form 1-FR as of the first monthend following the date on which his registration is approved. Such report must be filed with the National Futures Association, the Commission and the designated self-regulatory organization, if any, not more than 45 days after the date for which the report is made.

(b) \* \* \*

(4) Upon receiving written notice from any representative of the National Futures Association, the Commission or

any self-regulatory organization of which it is a member, an applicant or registrant, except an applicant for registration as an introducing broker which has filed concurrently with its application for registration a guarantee agreement and which is not also a securities broker or dealer, must, monthly or at such times as specified, furnish the National Futures Association, the Commission or the self-regulatory organization requesting such information a form 1-FR or such other financial information as requested by the National Futures Association, the Commission or the self-regulatory organization. Each such form 1-FR or such other information must be furnished within the time period specified in the written notice, and in accordance with the provisions of paragraph (c) of this section.

(c) *Where to file reports.* The reports provided for in this section will be considered filed when received by the regional office of the Commission nearest the principal place of business of the registrant (except that a registrant under the jurisdiction of the Commission's Western Regional Office must file such reports with the Southwestern Regional Office) and by the designated self-regulatory organization, if any; and reports required to be filed by this section by an applicant for registration will be considered filed when received by the National Futures Association and by the regional office of the Commission nearest the principal place of business of the applicant (except that an applicant under the jurisdiction of the Commission's Western Regional Office must file such reports with the Southwestern Regional Office): *Provided, however,* That information required of a registrant pursuant to paragraph (b)(4) of this section need be furnished only to the self-regulatory organization requesting such information and the Commission, and that information required of an applicant pursuant to paragraph (b)(4) of this section need be furnished only to the National Futures Association and the Commission.

\* \* \* \* \*

(e) *Election of fiscal year.* (1) An applicant wishing to establish a fiscal year other than the calendar year may do so by notifying the National Futures Association of its election of such fiscal year, in writing, concurrently with the filing of the form 1-FR pursuant to paragraph (a)(2) of this section, but in no event may such fiscal year end more than one year from the date of the form 1-FR filed pursuant to paragraph (a)(2)

of this section. A copy of such written notice must also be filed with the regional office of the Commission nearest the principal place of business of the applicant (except that an applicant under the jurisdiction of the Commission's Western Regional Office must file such a notice with the Commission's Southwestern Regional Office). An applicant which does not so notify the National Futures Association and the Commission will be deemed to have elected the calendar year as its fiscal year. A registrant must continue to use its elected fiscal year, calendar or otherwise, unless a change in such fiscal year is approved upon written application to the principal office of the Commission in Washington, D.C., and written notice of such change is given to the designated self-regulatory organization, if any.

(2) An applicant may elect to file its form 1-FR for each calendar quarter in lieu of each fiscal quarter by notifying the National Futures Association of its election, in writing, concurrently with the filing of the form 1-FR pursuant to paragraph (a)(2) of this section. A copy of such written notice must also be filed with the regional office of the Commission nearest the principal place of business of the applicant (except that an applicant under the jurisdiction of the Commission's Western Regional Office must file such a notice with the Commission's Southwestern Regional Office). A registrant wishing to change such election or to make such election other than concurrently with the filing of the form 1-FR pursuant to paragraph (a)(2) of this section may do so only if such change or election is approved by the Commission upon written application to the principal office of the Commission in Washington, D.C., and written notice of such change is given to the designated self-regulatory organization, if any.

*(f) Extension of time for filing reports.*

(1) In the event a registrant finds that it cannot file its report for any period within the time specified in paragraphs (b)(1) or (b)(4) of this section or § 1.12(b) without substantial undue hardship, it may file with the principal office of the Commission in Washington, D.C., an application for an extension of time to a specified date which may not be more than 90 days after the date as of which the financial statements were to have been filed. The application must state the reasons for the requested extension and must contain an agreement to file the report on or before the specified date. The application must be received by the Commission before the time specified in paragraphs (b)(1) or (b)(4) of

this section or § 1.12(b) for filing the report. Notice of such application must be given to the designated self-regulatory organization, if any, concurrently with the filing of such application with the Commission. Within ten calendar days after receipt of the application for an extension of time, the Commission shall: (i) Notify the registrant of the grant or denial of the requested extension; or (ii) indicate to the registrant that additional time is required to analyze the request, in which case the amount of time needed will be specified. (See § 1.16(f) for extension of the time for filing certified financial statements.)

(2) In the event an applicant finds that it cannot file its report for any period within the time specified in paragraph (b)(4) of this section or § 1.12(b) without substantial undue hardship, it may file with the National Futures Association an application for an extension of time to a specified date which may not be more than 90 days after the date as of which the financial statements were to have been filed. The application must state the reasons for the requested extension and must contain an agreement to file the report on or before the specified date. The application must be received by the National Futures Association before the time specified in paragraph (b)(4) of this section or § 1.12(b) for filing the report. Notice of such application must be filed with the regional office of the Commission nearest the principal place of business of the applicant (except that an applicant under the jurisdiction of the Commission's Western Regional Office must file such a notice with the Commission's Southwestern Regional Office) concurrently with the filing of such application with the National Futures Association. Within ten calendar days after receipt of the application for an extension of time, the National Futures Association shall: (i) Notify the applicant of the grant or denial of the requested extension; or (ii) indicate to the applicant that additional time is required to analyze the request, in which case the amount of time needed will be specified.

*(g) \* \* \**

(4) All information on such other statements, footnote disclosures and schedules will, however, be available for official use by any official or employee of the United States or any State, by any self-regulatory organization of which the person filing such report is a member, by the National Futures Association in the case of an applicant, and by any other person to whom the Commission believes

disclosure of such information is in the public interest. Nothing in this paragraph (g) will limit the authority of any self-regulatory organization to request or receive any information relative to its members' financial condition.

\* \* \* \* \*

2. Section 1.12 is amended by revising paragraphs (b)(3) and (g), and by removing paragraph (h) to read as follows:

**§ 1.12 Maintenance of minimum financial requirements by futures commission merchants and introducing brokers.**

\* \* \* \* \*

*(b) \* \* \**

(3) For securities brokers or dealers, the amount of net capital specified in Rule 17a-11(b) of the Securities and Exchange Commission (17 CFR 240.17a-11(b)) must file written notice to that effect as set forth in paragraph (g) of this section within five (5) business days of such event. Such applicant or registrant, must also file a Form 1-FR (or, if such applicant or registrant is registered with the Securities and Exchange Commission as a securities broker or dealer, it may file, in accordance with § 1.10(h), a copy of its Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II, in lieu of Form 1-FR) or such other financial statement designated by the National Futures Association, in the case of an applicant, or by the Commission or the designated self-regulatory organization, if any, in the case of a registrant, as of the close of business for the month during which such event takes place and as of the close of business for each month thereafter until three (3) successive months have elapsed during which the applicant's or registrant's adjusted net capital is at all times equal to or in excess of the minimums set forth in this paragraph (b) which are applicable to such applicant or registrant. Each financial statement required by this paragraph (b) must be filed within 30 calendar days after the end of the month for which such report is being made.

\* \* \* \* \*

(g) Every notice and written report required to be given or filed by this section (except for notices required by paragraph (f) of this section) must be filed with the regional office of the Commission nearest the principal place of business of the applicant or registrant (except that an applicant or registrant under the jurisdiction of the Commission's Western Regional Office must file such notices and reports with the Southwestern Regional Office), with



the designated self-regulatory organization, if any, with the Securities and Exchange Commission, if such applicant or registration is a securities broker or dealer, and with the National Futures Association, if the firm is an applicant. In addition, every notice and written report which an introducing broker or applicant for registrant as an introducing broker is required to give or file by paragraphs (a), (c) and (d) of this section also must be filed with the National Futures Association, with the designated self-regulatory organization, if any, and with every futures commission merchant carrying or intending to carry customer accounts for the introducing broker or applicant for registration as an introducing broker. Further, every notice required to be given by this section must also be filed with the principal office of the Commission in Washington, D.C. Each statement of financial condition, each statement of the computation of the minimum capital requirements pursuant to § 1.17, and each schedule of segregation requirements and funds on deposit in segregation required by this section must be filed in accordance with the provisions of § 1.10(d) of these regulations, unless otherwise indicated.

3. Section 1.16 is amended by revising paragraphs (e)(2), (f), and (g) to read as follows:

**§ 1.16 Qualifications and reports of accountants.**

\* \* \* \* \*

(e) \* \* \*

(2) If during the course of an audit or interim work, the independent public accountant determines that any material inadequacies exist in the accounting system, in the internal accounting control, in the procedures for safeguarding customer or firm assets, or as otherwise defined in paragraph (d) of this section, he must call such inadequacies to the attention of the applicant or registrant, which has the responsibility to give notice to the National Futures Association and, if an applicant, or the Commission and the designated self-regulatory organization, if any, if a registrant, in accordance with paragraphs (d) and (g) of § 1.12: *Provided, however,* That if the applicant or registrant is an introducing broker or applicant for registration as an introducing broker, it also has the responsibility to give notice to the National Futures Association, the designated self-regulatory organization, if any, and every futures commission merchant carrying or intending to carry customer accounts for the introducing broker or applicant for registration as an introducing broker. The applicant or

registrant must also furnish the accountant with a copy of said notice within three (3) business days. If the accountant fails to receive such notice from the applicant or registrant within three (3) business days, or if he disagrees with the statements contained in the notice of the applicant or registrant, the accountant must inform the National Futures Association, in the case of an applicant, or the Commission and the designated self-regulatory organization, if any, in the case of a registrant, by reporting the material inadequacy and, in the case of an applicant or registrant which is an introducing broker or applicant for registration as an introducing broker, the accountant must also inform the National Futures Association, the designated self-regulatory organization, if any, and every futures commission merchant carrying or intending to carry customer accounts for the introducing an introducing broker, within three (3) business days thereafter. Such report from the accountant must, if the applicant or registrant failed to file a notice, describe the material inadequacies found to exist. If the applicant or registrant filed a notice, the accountant must file a report detailing the aspects, if any, of the applicant's or registrant's notice with which the accountant does not agree.

(f) *Extension of time for filing audited reports.* (1) In the event a registrant finds that it cannot file its certified financial statements and schedules for any year within the time specified in § 1.10 without substantial undue hardship, it may file with the principal office of the Commission in Washington, D.C., an application for extension of time to a specified date not more than 90 days after the date as of which the certified financial statements and schedules were to have been filed. Notice of such application must be sent to the designated self-regulatory organization, if any. The application must be made by the registrant and must: (i) State the reasons for the requested extension; (ii) indicate that the inability to make a timely filing is due to circumstances beyond the control of the registrant, if such is the case, and describe briefly the nature of such circumstances; (iii) be accompanied by the latest available formal computation of the registrant's adjusted net capital and minimum financial requirements computed in accordance with § 1.17; (iv) in the case of a futures commission merchant, be accompanied by the latest available computation of required segregation and by a computation of the amount of money, securities, and

property segregated on behalf of customers as of the date of the latest available computation; (v) contain an agreement to file the report on or before the date specified by the registrant in the application; (vi) be received by the principal office of the Commission in Washington, D.C. and by the designated self-regulatory organization, if any, prior to the date on which the report is due; and (vii) be accompanied by a letter from the independent public accountant answering the following questions:

(A) What specifically are the reasons for the extension request?

(B) On the basis of that part of your audit to date, do you have any indication that may cause you to consider commenting on any material inadequacies in the accounting system, internal accounting controls or procedures for safeguarding customer or firm assets?

(C) Do you have any indication from the part of your audit completed to date that would lead you to believe that the firm was or is not meeting the minimum capital requirements specified in § 1.17 or (in the case of a futures commission merchant) the segregation requirements of Section 4d(2) of the Act and these regulations, or has any significant financial or recordkeeping problems?

(2) Within ten calendar days after receipt of an application for extension of time, the Commission shall: (i) Notify the registrant of the grant or denial of the requested extension; or (ii) indicate to the registrant that additional time is required to analyze the request, in which case the amount of time needed will be specified.

(3) On the written request of any designated self-regulatory organization or registrant, or on its own motion, the Commission may grant an extension of time or an exemption from any of the certified financial reporting requirements of this chapter either unconditionally or on specified terms and conditions.

(g) *Replacement of accountant.* (1) In the event (i) the independent public accountant who was previously engaged as the principal accountant to audit an applicant's or registrant's financial statements resigns (or indicates he declines to stand for re-election after the completion of the current audit) or is dismissed as the applicant's or registrant's principal accountant, (ii) another independent accountant is engaged as principal accountant, or (iii) an independent accountant on whom the principal accountant expresses reliance in his report regarding a subsidiary resigns (or formally indicates he declines to stand for re-election after



completion of the current audit) or is dismissed or another independent public accountant is engaged to audit that subsidiary, an applicant shall file written notice of such occurrence with the National Futures Association, and a registrant shall file written notice of such occurrence with the Commission at its principal office in Washington, D.C., and with the designated self-regulatory organization, if any, not more than 15 business days after such occurrence.

(2) Such notice must state (i) the date of such resignation (or declination to stand for re-election, dismissal or engagement) and (ii) whether, in connection with the audit of the two most recent fiscal years and any subsequent interim period preceding such resignation, dismissal or engagement, there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statements disclosure, auditing scope or procedures, or compliance with the applicable rules of the Commission, which, if not resolved to the satisfaction of the former accountant, would have caused him to make reference in connection with his report to the subject matter of the disagreements (if so, describe such disagreements). The disagreements required to be reported in this paragraph (g)(2) include both those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction. Disagreements contemplated by this paragraph (g)(2) are those which occur at the decision-making level, *i.e.*, between personnel of the applicant or registrant responsible for presentation of its financial statements and schedules and personnel of the accounting firm responsible for rendering its report. The notice must also state whether the accountant's report on the financial statements and schedules for any of the past two years contained an adverse opinion or a disclaimer of opinion or was qualified as to uncertainties, audit scope, or accounting principles (if so, describe the nature of each such adverse opinion, disclaimer of opinion, or qualification). An applicant must also request the former accountant to furnish the applicant with a letter addressed to the National Futures Association, and a registrant must also request the former accountant to furnish the registrant with a letter addressed to the Commission, stating whether he agrees with the statements contained in the notice of the applicant or registrant and, if not, stating the respects in which he does not agree. Each copy of the notice and accountant's letter must be manually

signed by the sole proprietor or a general partner or a duly authorized corporate officer of the applicant or registrant, as appropriate, and by the accountant.

(3) If (i) within the 24 months prior to the date of the most recent audited financial statement, a notice has been filed pursuant to paragraph (g)(1) of this section reporting a change of accountants, (ii) included in such filing there is a reported disagreement on any matters of accounting principles or practices, financial statements disclosure, auditing scope, or noncompliance with the applicable rules of the Commission, (iii) during the fiscal year in which the change in accountants took place or during the subsequent fiscal year, there have been any transactions or events similar to those which involved a reported disagreement, and (iv) such transactions or events are material and were accounted for or disclosed in a manner different from that which the former accountant apparently would have concluded was required, the existence and nature of the disagreements and also the effect on the financial statements must be stated in a written notice to the National Futures Association, in the case of an applicant, or to the Commission at its principal office in Washington, D.C., and the designated self-regulatory organization, if any, in the case of a registrant, if the method which the former accountant apparently would have concluded was required had been followed. These disclosures need not be made if the method asserted by the former accountant ceases to be generally accepted because of authoritative standards or interpretations subsequently issued. The notice required by this paragraph (g)(3) must be filed by the applicant or registrant concurrently with the financial statements and schedules to which it pertains.

4. Section 1.17 is amended by revising paragraphs (a)(3), (f)(2)(ii), (h)(2)(vi) introductory text, (h)(2)(vi)(C), (h)(2)(vii)(A), (h)(2)(vii)(B), (h)(2)(ix)(A), (h)(2)(x)(A), (h)(2)(x)(B)(2), (h)(3)(ii) and (h)(3)(vi) to read as follows:

**§ 1.17 Minimum financial requirements for futures commission merchants and introducing brokers.**

(a) \* \* \*

(3) No person applying for registration as a futures commission merchant or as an introducing broker shall be so registered unless such person affirmatively demonstrates to the satisfaction of the National Futures Association that it complies with the

financial requirements of this § 1.17. Each registrant must be in compliance with this § 1.17 at all times and must be able to demonstrate such compliance to the satisfaction of the Commission or the designated self-regulatory organization.

(f) \* \* \*

(2) \* \* \*

(ii) Except as provided for in paragraph (f)(2)(i) of this section, consolidation shall be permitted with respect to any subsidiaries or affiliates which are majority owned and controlled by the applicant or registrant, and for which the applicant can demonstrate to the satisfaction of the National Futures Association, or for which the registrant can demonstrate to the satisfaction of the Commission and the designated self-regulatory organization, if any, by an opinion of counsel, that the net asset values or the portion thereof related to the parent's ownership interest in the subsidiary or affiliate, may be caused by the applicant or registrant or an appointed trustee to be distributed to the applicant or registrant within 30 calendar days. Such opinion must also set forth the actions necessary to cause such a distribution to be made, identify the parties having the authority to take such actions, identify and describe the rights of other parties or classes of parties, including but not limited to customers, general creditors, subordinated lenders, minority shareholders, employees, litigants, and governmental or regulatory authorities, who may delay or prevent such a distribution and such other assurances as the National Futures Association, the Commission or the designated self-regulatory organization by rule or interpretation may require. Such opinion must be current and periodically renewed in connection with the applicant's or registrant's annual audit pursuant to § 1.10 or upon any material change in circumstances.

(h) \* \* \*

(2) \* \* \*

(vi) *Collateral for secured demand notes.* Only cash and securities which are fully paid for and which may be publicly offered or sold without registration under the Securities Act of 1933, and the offer, sale, and transfer of which are not otherwise restricted, may be pledged as collateral to secure a secured demand note. The secured demand note agreement shall provide that if at any time the sum of the amount of any cash, plus the collateral value of any securities, then pledged as collateral

to secure the secured demand note is less than the unpaid principal amount of the secured demand note, the applicant or registrant must immediately transmit written notice to that effect to the lender. The secured demand note agreement shall also provide that if the borrower is an applicant, such notice must also be transmitted immediately to the National Futures Association, and if the borrower is a registrant, such notice must also be transmitted immediately to the designated self-regulatory organization, if any, and the Commission. The secured demand note agreement shall also require that following such transmittal:

(C) The secured demand note agreement may also provide that, in lieu of the procedures specified in the provisions required by paragraph (h)(2)(vi)(B) of this section, the lender, with the prior written consent of the applicant and the National Futures Association, or with the prior written consent of the registrant and the designated self-regulatory organization or, if the registrant is not a member of a designated self-regulatory organization, the Commission, may reduce the unpaid principal amount of the secured demand note: *Provided*, That after giving effect to such reduction the adjusted net capital of the applicant or registrant would not be less than the greatest of: (1) 120 percent of the appropriate minimum dollar amount required by paragraphs (a)(1)(i)(A) or (a)(1)(ii)(A) of this section; (2) for a futures commission merchant or applicant therefor, seven (7) percent of the following amount: the customer funds required to be segregated pursuant to the Act and these regulations less the market value of commodity options purchased by option customers on or subject to the rules of a contract market: *Provided, however*, that the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or (3) for an applicant or registrant which is also a securities broker or dealer, the amount of net capital specified in Rule 15c3-1d(b)(6)(iii) of the Securities and Exchange Commission (17 CFR 240.15c3-1d(b)(6)(iii)): *Provided, further*, That no single secured demand note shall be permitted to be reduced by more than 15 percent of its original principal amount and after such reduction no excess collateral may be withdrawn.

(vii) *Permissive prepayments and special prepayments.* (A) An applicant or registrant at its option, but not at the option of the lender, may, if the

subordination agreement so provides, make a payment of all or any portion of the payment obligation thereunder prior to the scheduled maturity date of such payment obligation (hereinafter referred to as a "prepayment"), but in no event may any prepayment be made before the expiration of one year from the date such subordination agreement became effective: *Provided, however*, That the foregoing restriction shall not apply to temporary subordination agreements which comply with the provisions of paragraph (h)(3)(v) of this section nor shall it apply to "special prepayments" made in accordance with the provisions of paragraph (h)(2)(vi)(B) of this section. No prepayment shall be made if, after giving effect thereto (and to all payments of payment obligations under any other subordination agreements then outstanding, the maturity or accelerated maturities of which are scheduled to fall due within six months after the date such prepayment is to occur pursuant to this provision, or on or prior to the date on which the payment obligation in respect to such prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the applicant or registrant, the adjusted net capital of the applicant or registrant is less than the greatest of: (1) 120 percent of the appropriate minimum dollar amount required by paragraphs (a)(1)(i)(A) or (a)(1)(ii)(A) of this section; (2) for a futures commission merchant or applicant therefor, seven (7) percent of the following amount: the customer funds required to be segregated pursuant to the Act and these regulations less the market value of commodity options purchased by option customers on or subject to the rules of a contract market: *Provided, however*, That the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or (3) for an applicant or registrant which is also a securities broker or dealer, the amount of net capital specified in Rule 15c3-1d(b)(7) of the Securities and Exchange Commission (17 CFR 240.15c3-1d(b)(7)). Notwithstanding the above, no prepayment shall occur without the prior written approval of the National Futures Association, in the case of an applicant, or without the prior written approval of the designated self-regulatory organization, if any, and the Commission, in the case of a registrant.

(B) An applicant or registrant at its option, but not at the option of the lender, may, if the subordination agreement so provides, make a payment at any time of all or any

portion of the payment obligation thereunder prior to the scheduled maturity date of such payment obligation (hereinafter referred to as a "special prepayment"). No special prepayment shall be made if, after giving effect thereto (and to all payments of payment obligations under any other subordination agreements then outstanding, the maturity or accelerated maturities of which are scheduled to fall due within six months after the date such special prepayment is to occur pursuant to this provision, or on or prior to the date on which the payment obligation to respect to such special prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the applicant or registrant, the adjusted net capital of the applicant or registrant is less than the greatest of: (1) 200 percent of the appropriate minimum dollar amount required by paragraphs (a)(1)(i)(A) or (a)(1)(ii)(A) of this section; (2) for a futures commission merchant or applicant therefor, 10 percent of the following amount: the customer funds required to be segregated pursuant to the Act and these regulations less the market value of commodity options purchased by option customers on or subject to the rules of a contract market: *Provided, however*, That the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or (3) for an applicant or registrant which is also a securities broker or dealer, the amount of net capital specified in Rule 15c3-1d(c)(5)(ii) of the Securities and Exchange Commission (17 CFR 240.15c3-1d(c)(5)(ii)): *Provided, further*, That no special prepayment shall be made if pre-tax losses during the latest three-month period were greater than 15 percent of current excess adjusted net capital. Notwithstanding the above, no special prepayment shall occur without the prior written approval of the National Futures Association, in the case of an applicant, or without the prior written approval of the designated self-regulatory organization, if any, and the Commission, in the case of a registrant.

(ix) *Accelerated maturity.* Obligation to repay to remain subordinate:

(A) Subject to the provisions of paragraph (h)(2)(viii) of this section, a subordination agreement may provide that the lender may, upon prior written notice to the applicant and the National Futures Association, or upon prior written notice to the registrant and the designated self-regulatory organization or, if the registrant is not a member of a

designated self-regulatory organization, the Commission, given not earlier than six months after the effective date of such subordination agreement, accelerate the date on which the payment obligation of the borrower, together with accrued interest or compensation, is scheduled to mature to a date not earlier than six months after giving of such notice, but the right of the lender to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of this paragraph (h)(2) of this section.

(x) *Accelerated maturity of subordination agreements on event of default and event of acceleration.* Obligation to repay to remain subordinate:

(A) A subordination agreement may provide that the lender may, upon prior written notice to the applicant and the National Futures Association, or upon prior written notice to the registrant and the designated self-regulatory organization or, if the registrant is not a member of a designated self-regulatory organization, the Commission, of the occurrence of any event of acceleration (as hereinafter defined) given no sooner than six months after the effective date of such subordination agreement, accelerate the date on which the payment obligation of the applicant or registrant, together with accrued interest or compensation, is scheduled to mature, to the last business day of a calendar month which is not less than six months after notice of acceleration is received by the applicant and by the National Futures Association, or by the registrant and the designated self-regulatory organization or, if the registrant is not a member of a designated self-regulatory organization, the Commission. Any subordination agreement containing such events of acceleration may also provide that, if upon such accelerated maturity date the payment obligation of the applicant or registrant is suspended as required by paragraph (h)(2)(viii) of this section and liquidation of the applicant or registrant has not commenced on or prior to such accelerated maturity date, notwithstanding paragraph (h)(2)(viii) of this section, the payment obligation of the applicant or registrant with respect to such subordination agreement shall mature on the day immediately following such accelerated maturity date and in any such event the payment obligations of the applicant or registrant with respect to all other subordination agreements then outstanding shall also mature at the same time but the rights of

the respective lenders to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of paragraph (h)(2) of this section. Events of acceleration which may be included in a subordination agreement complying with this paragraph (h)(2)(x) of this section shall be limited to:

(2) Failure to meet the minimum capital requirements of the designated self-regulatory organization, or of the Commission, throughout a period of 15 consecutive business days, commencing on the day the borrower first determines and notifies the designated self-regulatory organization, if any, of which he is a member and the Commission, in the case of a registrant, or the National Futures Association, in the case of an applicant, or commencing on the day any self-regulatory organization, the Commission or the National Futures Association first determines and notifies the applicant or registrant of such fact;

(ii) *Notice of maturity or accelerated maturity.* An applicant shall immediately notify the National Futures Association, and a registrant shall immediately notify the designated self-regulatory organization, if any, and the Commission if, after giving effect to all payments of payment obligations under subordination agreements then outstanding which are then due or mature within the following six months without reference to any projected profit or loss of the applicant or registrant, its adjusted net capital would be less than: (A) 120 percent of the minimum dollar amount required by paragraphs (a)(1)(i)(A) or (a)(1)(ii)(A) of this section; (B) for a futures commission merchant or applicant therefor, six (6) percent of the following amount: the customer funds required to be segregated pursuant to the Act and these regulations less the market value of commodity options purchased by option customers or subject to the rules of a contract market: *Provided, however,* That the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or (C) for an applicant or registrant which is also a securities broker or dealer, the amount of net capital specified in Rule 15c3-1d(c)(2) of the Securities and Exchange Commission (17 CFR 240.15c3-1d(c)(2)).

(vi) *Filing.* An applicant shall file a signed copy of any proposed

subordination agreement (including nonconforming subordination agreements) with the National Futures Association at least ten days prior to the proposed effective date of the agreement or at such other time as the National Futures Association for good cause shall accept such filing, and a signed copy shall also be filed simultaneously with the regional office of the Commission nearest the principal place of business of the applicant (except that an applicant under the jurisdiction of the Commission's Western Regional Office shall file such a signed copy with the Commission's Southwestern Regional Office). A registrant shall file two signed copies of any proposed subordination agreement (including nonconforming subordination agreements) with the Commission at the Office of the Chief Accountant, Division of Trading and Markets, in Washington, D.C. at least ten days prior to the proposed effective date of the agreement or at such other time as the Commission for good cause shall accept such filing. Copies of the proposed agreement shall be filed in such quantities and at such time as the designated self-regulatory organization may require with the designated self-regulatory organization, if any, of which the registrant is a member. The applicant or registrant shall also file with said parties a statement setting forth the name and address of the lender, the business relationship of the lender to the applicant or registrant and whether the applicant or registrant carried funds or securities for the lender at or about the time the proposed agreement was so filed. A proposed agreement filed by an applicant with the National Futures Association shall be examined at the National Futures Association, and no such agreement shall be a satisfactory subordination agreement for the purposes of this section unless and until the National Futures Association has found the agreement acceptable and such agreement has become effective in the form found acceptable. A proposed agreement filed by a registrant shall be examined at the designated self-regulatory organization with whom such an agreement is required to be filed prior to its becoming effective or, if the registrant is not a member of any designated self-regulatory organization, at the Commission. No proposed agreement shall be a satisfactory subordination agreement for the purposes of this section unless and until the designated self-regulatory organization or the Commission has found the agreement acceptable and

such agreement has become effective in the form found acceptable.

5. Section 1.18 is amended by revising paragraph (b) to read as follows:

**§ 1.18 Records for and relating to financial reporting and monthly computation by futures commission merchants and introducing brokers.**

(b) Each applicant or registrant must make and keep as a record in accordance with § 1.31 formal computations of its adjusted net capital and of its minimum financial requirements pursuant to § 1.17 or the requirements of the designated self-regulatory organization to which it is subject as of the close of business each month. An applicant or registrant which is also registered as a securities broker or dealer with the Securities and Exchange Commission may meet the computation requirements of this paragraph (b) by completing the Statement of Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II or Part IIA. An introducing broker or applicant for registration as an introducing broker which is also a country elevator may meet the computation requirements of this paragraph (b) by means of a monthly financial report completed in accordance with § 1.10(i). Such computations must be completed and made available for inspection by any representative of the National Futures Association, in the case of an applicant, or of the Commission or designated self-regulatory organization, if any, in the case of a registrant, within 30 days after the date for which the computations are made, commencing the first month end after the date the application for registration is filed.

**PART 3—REGISTRATION**

6. Section 3.1 is amended by revising paragraph (b) to read as follows:

**§ 3.1 Definitions.**

(b) *Current*. As used in this subpart, a Form 8-R or Form 94 is current if, subsequent to the filing of that form and continuously thereafter, the registrant or principal has been either registered or affiliated with a registrant as a principal.

7. Section 3.2 is amended by revising paragraphs (a), (b), and (c) and by adding a new paragraph (e) to read as follows:

**§ 3.2 Registration processing by the National Futures Association; notification and duration of registration.**

(a) Except as otherwise provided in any rule, regulation or order of the Commission, the registration functions of the Commission set forth in subpart A and subpart B of this part shall be performed by the National Futures Association.

(b) Notwithstanding any other provision of this part, the original of any registration form, any schedule or supplement thereto, any fingerprint card or other document required by this part to be filed with both the Commission and the National Futures Association, may be filed with either the Commission or the National Futures Association if (1) a legible, accurate, and complete photocopy of that form, schedule, supplement, fingerprint card, or other document is filed simultaneously with the National Futures Association or the Commission, respectively, and (2) such photocopy contains an original signature and date in each place where such signature and date is required on the original form, schedule, supplement, fingerprint card, or other document.

(c) The Commission or the National Futures Association will notify the registrant, or the sponsor in the case of an applicant for registration as an associated person, if registration has been granted under the Act. If an applicant for registration as an associated person receives a temporary license in accordance with § 3.40 of this part, the Commission or the National Futures Association may notify the sponsor only that a temporary license has been granted.

(e) Any registration form, any schedule or supplement thereto, any fingerprint card or other document required by this part to be filed with the National Futures Association shall be deemed for all purposes to have been filed with, and to be the official record of, the Commission.

8. Section 3.3 is amended by revising paragraph (a) to read as follows:

**§ 3.3 Registration fees; form of remittance.**

(a) *Amount of fees.*—(1) *Floor brokers.* Each application for registration, or for renewal thereof, as a floor broker must be accompanied by a fee of \$25.

(2) *Leverage transaction merchants.* Each application for registration, or for renewal thereof, as a leverage transaction merchant must be accompanied by a fee of \$275.

(3) *Associated persons.* Each Form 8-R submitted in connection with the

registration of an associated person of a leverage transaction merchant must be accompanied by a fee of \$35.

(4) *Branch offices.* A fee of \$6 must be provided for each branch office of a leverage transaction merchant operating within the United States, as specified in any Form 7-R or any schedule thereto or in any Form 3-R filed with the Commission to report the addition of a branch office. The fee specified by this paragraph (a)(4) must accompany each Form 7-R filed as an application for initial registration or for renewal of registration and each Form 3-R filed to report the addition of a branch office.

9. Section 3.4 is revised to read as follows:

**§ 3.4 Registration in one capacity not included in registration in any other capacity.**

(a) Except as may be otherwise provided in the Act or in any rule, regulation, or order of the Commission, each futures commission merchant, floor broker, associated person, commodity trading advisor, commodity pool operator, introducing broker, and leverage transaction merchant must register as such under the Act. Registration in one capacity under the Act shall not include registration in any other capacity.

(b) Except as may be provided in any rule, regulation or order of the Commission, registration as an associated person in one capacity shall not include registration as an associated person in any other capacity: *Provided, however,* That an associated person who is sponsored by a registrant, which itself is registered in more than one capacity, need register only once to act as an associated person of the registrant, and shall be deemed to be an associated person of such registrant, in each such capacity.

10. Section 3.10 is amended by revising paragraphs (a) and (b) to read as follows:

**§ 3.10 Registration of futures commission merchants.**

(a) *Initial registration.* (1) Application for initial registration as a futures commission merchant must be on Form 7-R, completed and filed with the National Futures Association in accordance with the instructions thereto and the provisions of § 1.10 of this chapter.

(2) Each Form 7-R filed in accordance with the requirements of paragraph (a)(1) of this section must be accompanied by a Form 8-R, completed in accordance with the instructions

thereto and executed by each natural person who is a principal of the applicant, and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the National Futures Association for that purpose. The provisions of this paragraph (a)(2) do not apply to any principal who has a current Form 8-R or Form 94 on file with the Commission or the National Futures Association.

(b) *Renewal of registration.*

Application for renewal of registration as a futures commission merchant must be on Form 7-R, completed and filed with the National Futures Association in accordance with the instructions thereto.

11. Section 3.11 is amended by revising paragraphs (b) and (c) to read as follows:

§ 3.11 Registration of floor brokers.

(b) *Initial registration.* Application for initial registration as a floor broker must be on Form 8-R, completed and filed with the Commission in accordance with the instructions thereto. Each applicant for initial registration as a floor broker must file his fingerprints with the Form 8-R or a fingerprint card provided by the Commission for that purpose except, that a fingerprint card need not be filed by any applicant who has a current Form 8-R on Form 94 on file with the Commission or the National Futures Association.

(c) *Renewal of registration.*

Application for renewal of registration as a floor broker must be on Form 8-R, completed and filed with the Commission in accordance with the instructions thereto.

12. Section 3.12 is amended by revising paragraphs (a), (c)(1)(ii), (c)(3), (d)(1), (d)(3), (f)(4), (f)(6), (f)(8), and (f)(10) to read as follows:

§ 3.12 Registration of associated persons of futures commission merchants and introducing brokers.

(a) *Registration required.* It shall be unlawful for any person to be associated with a futures commission merchant or with an introducing broker as an associated person unless that person shall have registered under the Act as an associated person of that sponsoring futures commission merchant or introducing broker in accordance with the procedures in paragraphs (c) or (d) of this section.

(c) \* \* \*

(1) \* \* \*

(ii) The sponsor has verified the information supplied by the applicant in response to the questions on Form 8-R

which relate to the applicant's education and employment history during the preceding five years.

(3) Each Form 8-R filed in accordance with the requirements of paragraph (c) of this section must be accompanied by the fingerprints of the applicant on a fingerprint card provided for that purpose by the National Futures Association.

(d) *Special registration procedures for certain persons.* (1) Except as provided in paragraph (f) of this section, any person whose registration as an associated person in another capacity is still in effect, or whose registration as an associated person in the same capacity or in another capacity has terminated within the preceding sixty days, and who becomes associated with a sponsoring futures commission merchant or introducing broker which makes the certification provided by paragraph (d)(1)(i) of this section will be registered as, and in the capacity of, an associated person of such sponsor upon the mailing by that sponsor to the National Futures Association of written certifications stating:

(3) Within sixty days of mailing the certifications permitted by paragraph (d)(1) of this section, the associated person and the sponsor must complete and the sponsor must file with the National Futures Association a Form 8-R in accordance with the instructions thereto. The Form 8-R must contain the certifications required by paragraphs (c)(1)(ii)-(iv) of this section and must be accompanied by the fingerprints of the associated person on a fingerprint card provided by the National Futures Association for that purpose.

(f) *Certain dual and multiple associations prohibited.* No person may be simultaneously associated as an associated person with—

(4) Subject to the provisions of paragraph (f)(3) of this section, a futures commission merchant and a commodity trading advisor for which that futures commission merchant carries or introduces, or intends to carry or introduce, clients' or prospective clients' discretionary accounts;

(6) Subject to the provisions of paragraph (f)(5) of this section, a futures commission merchant and a commodity pool operator for which that futures commission merchant carries or introduces, or intends to carry or

introduce, the account of a commodity pool operated by that commodity pool operator;

(8) Subject to the provisions of paragraph (f)(7) of this section, an introducing broker and a commodity trading advisor for which that introducing broker introduces, or intends to introduce, clients' or prospective clients' discretionary accounts;

(10) Subject to the provisions of paragraph (f)(9) of this section, an introducing broker and a commodity pool operator for which that introducing broker introduces, or intends to introduce, the account of a commodity pool operated by that commodity pool operator.

13. Section 3.13 is revised to read as follows:

§ 3.13 Registration of commodity trading advisors.

(a) *Initial registration.* (1) Application for initial registration as a commodity trading advisor must be on Form 7-R, completed and filed with the National Futures Association in accordance with the instructions thereto.

(2) Each Form 7-R filed in accordance with the requirements of paragraph (a)(1) of this section must be accompanied by a Form 8-R, completed in accordance with the instructions thereto and executed by each natural person who is a principal of the applicant, and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the National Futures Association for that purpose. The provisions of this paragraph (a)(2) do not apply to any principal who has a current Form 8-R or Form 94 on file with the Commission or the National Futures Association.

(b) *Renewal of registration.* Application for renewal of registration must be on Form 7-R, completed and filed with the National Futures Association in accordance with the instructions thereto.

14. Section 3.14 is revised to read as follows:

§ 3.14 Registration of commodity pool operators.

(a) *Initial registration.* (1) Application for initial registration as a commodity pool operator must be on Form 7-R, completed and filed with the National Futures Association in accordance with the instructions thereto and the provisions of § 4.13(c) of this chapter.

(2) Each Form 7-R filed in accordance with the requirements of paragraph (a)(1) of this section must be accompanied by a Form 8-R, completed in accordance with the instructions thereto and executed by each natural person who is a principal of the applicant, and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the National Futures Association for that purpose. The provisions of this paragraph (a)(2) do not apply to any principal who has a current Form 8-R or Form 94 on file with the Commission or the National Futures Association.

(b) *Renewal of registration.* Application for renewal of registration as a commodity pool operator must be on Form 7-R, completed and filed with the National Futures Association in accordance with the instructions thereto.

(15) Section 3.15 is amended by revising paragraph (a)(2) to read as follows:

**§ 3.15 Registration of introducing brokers.**

(a) \* \* \*

(2) Each Form 7-R filed in accordance with the requirements of paragraph (a)(1) of this section must be accompanied by a Form 8-R, completed in accordance with the instructions thereto and executed by each natural person who is a principal of the applicant, and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the National Futures Association for that purpose. The provisions of this paragraph (a)(2) do not apply to any principal who has a current Form 8-R or Form 94 on file with the Commission of the National Futures Association.

16. Section 3.16 is amended by revising the introductory paragraph to paragraph (c) and paragraphs (c)(3), (d)(3), (e)(2)(i), and (e)(2)(ii) to read as follows:

**§ 3.16 Registration of associated persons of commodity trading advisors and commodity pool operators.**

(c) *Application for initial registration.*

Except as otherwise provided in paragraph (d) and (e) of this section, application for initial registration as an associated person of a commodity trading advisor or commodity pool operator must be on Form 8-R, completed and filed with the National Futures Association in accordance with the instructions thereto.

(3) Each Form 8-R filed in accordance with the requirements of paragraph (c)

of this section must be accompanied by the fingerprints of the applicant on a fingerprint card provided for that purpose by the National Futures Association.

\* \* \* \* \*

(d) \* \* \*

(3) Within sixty days of mailing the certificates permitted by paragraph (d)(1) of this section, the associated person and the sponsor must complete and the sponsor must file with the National Futures Association a Form 8-R in accordance with the instructions thereto. The Form 8-R must contain the certifications required by paragraphs (c)(1) (ii)-(iv) of this section and must be accompanied by the fingerprint card provided by the National Futures Association for that purpose.

(e) \* \* \*

(2)(i) A person who is already registered as an associated person in any capacity may become associated with a commodity trading advisor or with a commodity pool operator if that commodity trading advisor or commodity pool operator files with the National Futures Association a Form 3-R in accordance with the instructions thereto. Such filing shall constitute a certification that the commodity trading advisor or commodity pool operator has verified that the associated person is currently registered as an associated person in any capacity and that the associated person is not subject to a statutory disqualification as set forth in section 8a(2) of the Act, and an acknowledgment that in addition to its responsibility to supervise that associated person, the commodity trading advisor or commodity pool operator is jointly and severally responsible for the conduct of the associated person with respect to the solicitation of any client's or prospective client's discretionary account or the solicitation of funds, securities, or property for a participation in a commodity pool, with respect to any customers or option customers common to it and any other commodity trading advisors or commodity pool operators with which the associated person is associated. Upon receipt by the National Futures Association of such a Form 3-R, the associated person named therein shall be registered as an associated person of the sponsoring commodity trading advisor or commodity pool operator.

(ii) A person who is simultaneously associated with more than one sponsor in accordance with the provisions of this paragraph (e)(2) shall be required, upon receipt of notice from the National Futures Association, to file with the

National Futures Association the registrant's fingerprints on a fingerprint card provided by the National Futures Association for that purpose as well as such other information as the National Futures Association may require. The National Futures Association may require such a filing every two years, or at such greater period of time as the National Futures Association may deem appropriate, after the associated person has become associated with a commodity trading advisor or with a commodity pool operator in accordance with the requirements of this paragraph (e)(2).

\* \* \* \* \*

17. Section 3.17 is amended by revising paragraph (a)(2) to read as follows:

**§ 3.17 Registration of leverage transaction merchants.**

(a) \* \* \*

(2) Each Form 7-R filed in accordance with the requirements of paragraph (a)(1) of this section must be accompanied by a Form 8-R, completed in accordance with the instructions thereto and executed by each natural person who is a principal of the applicant, and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the Commission for that purpose. The provisions of this paragraph (a)(2) do not apply to any principal who has a current Form 8-R Form 94 on file with the Commission or the National Futures Association.

\* \* \* \* \*

18. Section 3.22 is amended by revising the introductory paragraph of the section and paragraphs (a) and (b) to read as follows:

**§ 3.22 Supplemental filings.**

Notwithstanding any other provision of this chapter, the Commission or the Director of the Division of Trading and Markets or the Director's designee or the National Futures Association may, at any time, give written notice to any registrant, applicant for registration, or person required to be registered:

(a) That information has come to the attention of the Commission's or the National Futures Association's staff which, if true, could constitute grounds upon which to base a determination that the person is unfit to become, or to remain, registered in accordance with the Act or the regulations thereunder and setting forth such information in the notice, or that the Commission or the National Futures Association has undertaken a routine or periodic review



of the registrant's fitness to remain so registered; and

(b) That the person, or any individual who, based upon his relationship with that person is required to file a Form 8-R in accordance with the requirements of this part, as applicable, must, within five days of receipt thereof, or such shorter period of time as the Commission or the National Futures Association may specify, complete and file with the Commission or the National Futures Association a current Form 8-R, in accordance with the instructions thereto, which must be accompanied by that individual's fingerprints on a fingerprint card provided by the Commission or the National Futures Association for that purpose.

19. Section 3.30 is revised to read as follows:

**§ 3.30 Current address for purpose of delivery of communications from the Commission or the National Futures Association.**

The address of each registrant, applicant for registration and principal, as submitted on the application for registration (Form 7-R or Form 8-R) or as submitted on the biographical supplement (Form 8-R) shall be deemed to be the address for delivery to the registrant, applicant or principal for any communications from the Commission or the National Futures Association, including any summons, complaint, reparation claim, order, subpoena, special call, request for information, notice, and other written documents or correspondence, unless the registrant, applicant or principal specifies another address for this purpose: *Provided*, That the Commission or the National Futures Association may address any correspondence relating to a biographical supplement submitted for or on behalf of a principal to the futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant with which the principal is affiliated and may address any correspondence relating to the registration of an associated person to the futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant with which the associated person or the applicant for registration is or will be associated as an associated person. Each registrant, while registered, and each principal, while affiliated with a registrant, must keep current the address on the application for registration, biographical supplement, or other address filed with the Commission

or with the National Futures Association for the purpose of receiving communications from the Commission or the National Futures Association. An order of default or other appropriate relief may be entered in any proceeding, including a reparation proceeding commenced while the registrant is registered or within two years thereafter, for failure to file a required response to any communication sent to the latest such address filed with the Commission or with the National Futures Association.

19. Section 3.31 is amended by deleting paragraph (d) and by revising paragraphs (c)(1), (c)(2)(i) and (c)(2)(ii) to read as follows:

**§ 3.31 Deficiencies, inaccuracies, and changes, to be reported.**

(c)(1) After the filing of a Form 8-R, a Certificate of Special Registration (Form 8-S), or a Form 3-R by or on behalf of any person for the purpose of permitting that person to be an associated person of a futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant, that futures commission merchant, commodity trading advisor, commodity pool operator, or introducing broker must, within twenty days after the occurrence of either of the following, file a notice thereof with the National Futures Association or, in the case of a leverage transaction merchant, with the Commission, indicating:

(2)(i) Each person registered as, or applying for registration as, a leverage transaction merchant must, within twenty days after the termination of the affiliation of a principal with the registrant or applicant, file a notice thereof with the Commission.

(ii) Each person registered as, or applying for registration as, a futures commission merchant, commodity trading advisor, commodity pool operator or introducing broker must, within twenty days after the termination of the affiliation of a principal with the registrant or applicant, file a notice thereof with the National Futures Association.

20. Section 3.32 is amended by revising paragraphs (b), (c), (e)(1), (f) and (h) to read as follows:

**§ 3.32 Changes requiring new registration; addition of principals.**

(b) Application for a new registration required under paragraph (a) of this section must be on Form 7-R, completed

and filed with the National Futures Association or, in the case of a leverage transaction merchant, the Commission, in accordance with the instructions thereto.

(c) Notwithstanding any other provision of this part, each Form 7-R filed in accordance with paragraph (b) of this section must be accompanied by a Form 8-R, completed in accordance with the instructions thereto and executed by each natural person who is a principal of the registrant and who was not listed on the registrant's initial application for registration or any amendment thereto. The Form 8-R for each such principal must be accompanied by the fingerprints of that principal on a fingerprint card provided by the National Futures Association or, in the case of a principal of a leverage transaction merchant, the Commission, for that purpose.

(e)(1) In the event of a change in control as described in paragraphs (d) (4) and (5) of this section, a new registration will not be required if the registrant submits a written notice on Form 3-R to the National Futures Association or, in the case of a leverage transaction merchant, to the Commission, at least 45 days prior to the date of such change in control, and includes with such notice a Form 8-R, completed in accordance with the instructions thereto and executed by each natural person who thus will become a principal of the registrant. The Form 8-R for each such individual must be accompanied by the fingerprints of that individual on a fingerprint card provided by the National Futures Association, or the Commission if the registrant is a leverage transaction merchant, for that purpose: *Provided, however*, That a fingerprint card need not be provided under this paragraph for any individual who is registered with the Commission as an associated person of the registrant of which the individual intends to become a principal.

(f) If the registrant is a leverage transaction merchant, all documents submitted pursuant to this section shall be filed with the Commission at its Washington, D.C. office (Attn: Assistant Director for Registration, Division of Trading and Markets, 2033 K Street, NW., Washington, D.C. 20581). If the registrant is a futures commission merchant, introducing broker, commodity trading advisor or commodity pool operator, all documents

shall be filed with the National Futures Association.

(h) Except as otherwise provided in this section, within twenty days after any natural person becomes a principal of an applicant of registrant subsequent to the filing of a Form 7-R in accordance with the requirements set forth in §§ 3.10 (a) or (b), 3.13 (a) or (b), 3.14 (a) or (b), 3.15 (a) or (b), or 3.17 (a) or (b) of this chapter, the applicant or registrant must file a Form 8-R with the National Futures Association, or the Commission if the applicant or registrant is a leverage transaction merchant. The Form 8-R must be completed by such principal in accordance with the instructions thereto and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the National Futures Association, or the Commission if the applicant or registrant is a leverage transaction merchant, for that purpose. This filing need not be made for any such principal who has a current Form 8-R or Form 94 on file with the Commission or the National Futures Association: *Provided*, That the applicant or registrant must notify the National Futures Association, or the Commission if the applicant or registrant is a leverage transaction merchant, within twenty days of the name of such added principal on Form-3-R.

21. Section 3.33 is amended by revising paragraphs (e), (f)(2)(ii) and (f)(2)(iii) to read as follows:

**§ 3.33 Withdrawal from registration.**

(e) A request for withdrawal from registration must be sent to the Commodity Futures Trading Commission at its Washington, D.C. Office (Registration Unit, Division of Trading and Markets, 2033 K Street, NW., Washington, D.C. 20581). If the registrant requesting withdrawal from registration is a futures commission merchant, introducing broker, commodity trading advisor or commodity pool operator, a copy of the request for withdrawal should be filed simultaneously with the National Futures Association.

(f) \* \* \*

(2) \* \* \*

(ii) The Commission imposes, or gives notice by mail, which notice shall be complete upon mailing, that it intends to impose, terms or conditions upon such withdrawal from registration;

(iii) The registrant is given notice by mail, which notice shall be complete upon mailing, or is otherwise notified

that it is currently the subject of an investigation to determine, among other things, whether such registrant has violated, is violating, or is about to violate the Act, rules, regulations or orders adopted thereunder;

22. Section 3.40 is amended by revising the introductory paragraph of the section and paragraph (b) to read as follows:

**§ 3.40 Temporary licensing of applicants for associated person registration.**

Notwithstanding any other provision of these regulations and pursuant to the terms and conditions of this subpart, the Commission or the National Futures Association, as appropriate, may grant a temporary license to any applicant for registration as an associated person upon the contemporaneous filing with the Commission or the National Futures Association, as appropriate, of:

(b) The fingerprints of the applicant on a fingerprint card provided by the Commission or the National Futures Association, as appropriate, for that purpose; and

23. Section 3.43 is amended by revising paragraph (b)(1) to read as follows:

**§ 3.43 Relationship to registration.**

(b) \* \* \*

(1) A determination by the Commission or the National Futures Association, as appropriate, that the applicant is qualified for registration as an associated person; or

**PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION**

24. Section 140.2 is amended by revising paragraphs (b) and (d) to read as follows:

**§ 140.2 Regional offices—Regional directors.**

(b) The Central Regional office is located at Sears Tower, 46th Floor, 233 South Wacker Drive, Chicago, Ill. 60606, and is responsible for enforcement of the Act and administration of the programs of the Commission in the States of Illinois, Indiana, Michigan, Ohio and Wisconsin.

(d) The Southwestern Regional office is located at 4901 Main Street, Suite 400, Kansas City, Missouri 64112, with a sub-office at Room 510, Grain Exchange

Building, Fourth Street and Fourth Avenue, South, Minneapolis, Minn. 55415, and is responsible for enforcement of the Act and administration of the programs of the Commission in the States of Arkansas, Colorado, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota and Texas.

**PART 145—COMMISSION RECORDS AND INFORMATION**

25. Section 145.6 is amended by revising paragraph (b) to read as follows:

**§ 145.6 Commission offices to contact for assistance; registration records available.**

(b)(1) The publicly available portions of Form 7-R (application for registration as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator or leverage transaction merchant), Form 8-R (application for registration as an associated person and floor broker and biographical supplement to application on Form 7-R), Form 8-S (certificate of special registration) and Form 8-T (notice of termination) will be available for public inspection and copying. Such registration forms with respect to floor brokers, leverage transaction merchants and associated persons of leverage transaction merchants will be available at the Central Regional Office of the Commission in Chicago. Such registration forms with respect to futures commission merchants, introducing brokers, commodity trading advisors, commodity pool operators and the associated persons of such registrants will be available in the offices of the National Futures Association, 200 West Madison Street, Chicago, Illinois 60606. Telephone: (312) 781-1300.

(2) The fingerprint card and any supplementary attachments filed in response to items 8-9, 14-18 and 21-23 on Form 8-R, to item 3 on Form 8-S, to items 3-5 and 9-11 on Form 8-T or to items 9-10 on Form 7-R generally will not be available for public inspection and copying unless such disclosure is required under the Freedom of Information Act. When such fingerprint cards or supplementary attachments are on file, the FOI, Privacy and Sunshine Acts compliance staff will decide any request for access in accordance with the procedures set forth in §§ 145.7 and 145.9.



Issued in Washington, D.C. on October 1, 1984, by the Commission.

Jean A. Webb,

*Acting Secretary of the Commission.*

[FR Doc. 84-26359 Filed 10-5-84; 8:45 am]

BILLING CODE 6351-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR Part 271

[Docket No. RM79-76-205; Louisiana—2 Addition II; Order No. 403]

#### High-Cost Gas Produced From Tight Formation; Louisiana

Issued October 5, 1984.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Final rule.

**SUMMARY:** Under section 107(c)(5) of the Natural Gas Policy Act of 1978, the Federal Energy Regulatory Commission designates certain types of natural gas as high-cost gas. High-cost gas is produced under conditions which present extraordinary risks or costs and once designated may receive an incentive price. Under section 107(c)(5), the Commission issued a rule designating natural gas produced from tight formations as high-cost gas. Jurisdictional agencies may submit recommendations of areas for designation as tight formations. Here the Commission adopts the recommendation by the Louisiana Department of Conservation that an additional portion of Haynesville Formation, Reservoir B, located in the Colquitt Field, Claiborne Parish, Louisiana, be designated as a tight formation.

**EFFECTIVE DATE:** This rule is effective November 5, 1984.

**FOR FURTHER INFORMATION CONTACT:** Kevin R. Rees, (202) 357-5420 or Walter Lawson, (202) 357-8556.

#### SUPPLEMENTARY INFORMATION:

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon and Oliver G. Richard III.

#### I. Background

Based on a recommendation by the State of Louisiana, Office of Conservation (Louisiana), the Commission amends its regulations to include an additional area of the Haynesville Formation, Reservoir B, as a tight formation eligible for incentive pricing under § 271.703.<sup>1</sup> The

amendment was proposed in a Notice of Proposed Rulemaking,<sup>2</sup> issued August 22, 1983.<sup>3</sup>

On May 25, 1983, Louisiana submitted a recommendation that an additional portion on the Haynesville Formation, Reservoir B, located in Colquitt Field, Claiborne Parish, Louisiana, be designated as a tight formation. The area initially recommended by Louisiana covered 2,480 acres. The applicant before Louisiana submitted data from four producing wells to support the recommendation.

The Commission staff reviewed the data submitted by Louisiana and found that the additional area did not meet the Commission's guidelines found in § 271.703(c)(2)(i) as one of the data wells, the Cities Service Company's Odom A No. 1 well, exhibited *in situ* permeability and flow rates in excess of the Commission's guidelines.

The Commission staff informed Louisiana that the area it recommended for tight formation designation did not appear to meet the Commission's guidelines because of the Odom A No. 1 well. On February 13, 1984, Louisiana submitted an amendment to its recommendation to the Commission, attempting to qualify the formation under § 271.703(c)(2)(ii). Louisiana stated that it would be uneconomical for Cities to produce gas from the Odom well in this formation absent the incentive price. Section 271.703(c)(2)(ii) allows the Commission to consider an area for tight formation designation if the area meets all the requirements of § 271.703(c)(2), but for the permeability guidelines found in § 271.703(c)(2)(i), provided that data is submitted by the jurisdictional agency which demonstrates that low permeability is found in the area, and that the incentive price is necessary for development of the area. Louisiana reiterated certain economic data contained in its original submission, but submitted no additional data to support finding under § 271.703(c)(2)(ii) that the incentive price was needed.

On July 9, 1984, Louisiana submitted a second amendment to the recommendation that the Haynesville Formation, Reservoir B; be designated as a tight formation. In this amendment, Louisiana requested that the Odom A No. 1 well and its associated 320-acre proration unit be excluded from the original recommendation.

The Commission has reviewed Louisiana's recommendation, as

amended, and finds that the evidence submitted by Louisiana supports its assertion that the Haynesville Formation, Reservoir B, meets the guidelines contained in § 271.703(c)(2). Thus, the Commission adopts Louisiana's amended recommendation.

#### List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below

Kenneth F. Plumb,  
*Secretary.*

#### PART 271—[AMENDED]

Section 271.703 is amended to read as follows:

1. The authority citation for Part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101, *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703(d) is amended by revising paragraph (22) to read as follows:

#### § 271.703 Tight Formations.

• • • • •

#### (d) Designated tight formations.

• • • • •

(22) Haynesville Formation in Louisiana. RM79-76 (Louisiana-2).

(i) Arkana Field, Bossier Parish.—(A) Delineation of the Formation. The Haynesville Formation is found in the northern part of Bossier Parish, Louisiana, on the Arkansas border and consists of the following: Township 23 North, Range 12 West, Sections 5 through 8, and 17 through 19; Township 23 North, Range 13 West, Sections 1 through 24; Township 23 North, Range 14 West, Sections 1, 2, 6 through 24, and 27 through 34; and Township 23 North, Range 15 West, Sections 1 through 3, 22 through 27, and 34 through 36.

(B) Depth. The top of the Haynesville Formation is located at a measured depth of 10,360 feet, with the base located at 10,845 feet on the induction electrical log of the Crystal Oil Company Hall No. 1 Well. In the Arkana Field, the Haynesville Formation consists of three members; the upper member varies in thickness from 120 to 220 feet, the middle member, the Haynesville Sand, ranges between 120 and 220 feet thick, and the lowest member, the Buckner, is between 200 and 400 feet thick.

<sup>1</sup>Comments on the proposed rule were invited and none were received. No party requested a public hearing and no hearing was held.

<sup>2</sup>48 FR 36551 (August 25, 1983).

<sup>3</sup>18 CFR 271.703 (1983).

(ii) *Colquitt Field, Clairborne Parish.*—(A) *Delineation of formation.* The Haynesville Formation, Reservoir B, in the Colquitt Field, is located in Clairborne Parish, Louisiana, and consists of the S ½ of the SW ¼ of Section 27, the S ½ of the S ½ of the NW ¼ and the S ½ of the NE ¼ of Section 30, and the N ½ of Section 24, Township 23 North, Range 6 West, the W ½ of Section 24, and the N ½ of the SE ¼ of Section 25, Township 23 North, Range 7 West.

(B) *Depth.* The Haynesville Formation, Reservoir B, is defined as that gas and condensate bearing formation occurring between the depths of 9,510 feet and 10,730 feet, on the electric log measurement of the Cities Service Company Hatter A No. 1 Well, located in Section 29, Township 23, Range 6 West.

[FR Doc. 84-26542 Filed 10-5-84; 8:45 am]  
BILLING CODE 6717-01-M

## 18 CFR Part 294

[Docket No. RM79-52-000; Order No. 401]

### Final Procedures for Shortages of Electric Energy and Capacity Under Section 206 of the Public Utility Regulatory Policies Act of 1978

Issued: October 5, 1984.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) is issuing a final rule that requires electric utilities to report to the Commission both anticipated shortages of electric energy and capacity and any amendments to the contingency plans already on file with the Commission. These reports are required under section 206 of the Public Utility Regulatory Policies Act of 1978 (PURPA). This rule finalizes an interim rule issued in 1979 that has been extended annually.

**EFFECTIVE DATE:** December 24, 1984.

**FOR FURTHER INFORMATION CONTACT:** Ken Malloy, Rulemaking and Legislative Analysis Section, Office of General Counsel, 825 North Capitol Street NE., Room 8602-A, Washington, D.C. 20426, (202) 357-8033.

#### SUPPLEMENTARY INFORMATION:

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa, Oliver G. Richard III, and Charles G. Stalon.

Final procedures for shortages of electric energy and capacity under section 206 of the Public Utility Regulatory Policies Act of 1978 (Docket No. RM79-52-000; Order No. 401). Final Rule.

The Federal Energy Regulatory Commission (Commission) is issuing a final rule that requires electric utilities to report to the Commission both anticipated shortages of electric energy and capacity, and any amendments to the contingency plans already on file with the Commission. These reports are required under section 206 of the Public Utility Regulatory Policies Act of 1978 (PURPA).<sup>1</sup> This rule finalizes an interim rule issued in 1979 that has been extended annually.

#### I. Background

Section 206 of PURPA directs the Commission to require, by rule, that each public utility: (1) report to the Commission and any appropriate state regulatory authority any anticipated shortage of electric energy or capacity which would affect the utility's capability of serving its wholesale customers; (2) prepare and submit to the Commission and to any appropriate state regulatory authority contingency plans respecting such shortages that outline what circumstances might give rise to the shortages; and (3) accommodate such shortages in a manner that gives due consideration to the public health, safety, and welfare, and assures that all persons served directly and indirectly by the utility are treated without undue prejudice or disadvantage.

On June 15, 1979, the Commission issued an interim rule implementing section 206 of PURPA.<sup>2</sup> The interim rule requires public utilities serving firm power wholesale customers to submit a contingency plan indicating how the utility would accommodate any shortages of electric energy or capacity affecting its firm power customers. The interim rule also requires each utility to report immediately any anticipated shortage of electric energy or capacity. In that report, the utility must provide the Commission with certain information, including information regarding any procedures for accommodating the particular shortage if they differ from the procedures set out in the utility's statement submitted pursuant to the interim rule.

The 1979 interim rule covered shortages and amendments to contingency plans that might occur prior to September 30, 1979. The Commission has amended the rule each year to extend the period in which shortages and amendments to a contingency accommodation plan had to be

reported.<sup>3</sup> The last extension of the interim rule runs until April 30, 1985.

In 1980, the Commission also issued a Notice of Inquiry requesting comments on various issues relating to the implementation of section 206.<sup>4</sup> The notice sought information and comments on three general areas: (1) the nature of the shortages to be reported and the manner of reporting; (2) the detail needed in contingency plans; and (3) the role of the Commission and appropriate state and Federal agencies in approving contingency plans and requiring their use during a shortage.

The Commission received 43 comments in response to the Notice of Inquiry. The majority of the comments were filed by individual utility companies, but the Commission also received comments from governmental regulatory agencies, from the states of Wisconsin, Washington, Oregon, and California, and from the Economic Regulatory Administration within the Department of Energy (DOE). Several comments representing consumer interests were also filed.

The comments reflected a widely-shared belief that the Commission need not establish a comprehensive emergency planning and reporting program under section 206 of PURPA. The comments suggested that any FERC program would be duplicative of energy emergency planning programs at DOE and the various state authorities that routinely monitor power supply shortages.

#### II. Discussion

##### A. The Commission's Legal Authority

This rule presents the issue of how the Commission should implement section 206 of PURPA.

On its face, section 206 is a reporting provision. It mandates only that electric utilities report to the Commission and to appropriate state agencies certain

<sup>1</sup> The interim rule was extended to April 30, 1980, by Interim Regulations, Docket No. RM79-52 (issued Oct. 23, 1979), 44 FR 61,953 (Oct. 29, 1979); to April 30, 1981, by Amendment to Extend Interim Regulations, Docket No. RM79-52 (issued Apr. 1, 1980), 45 FR 23,684 (Apr. 8, 1980); to April 30, 1982, by Amendment to Extend Interim Regulations, Docket No. RM79-52 (issued Apr. 23, 1981), 46 FR 24,550 (May 1, 1981); to April 30, 1983, by Amendment to Extend Interim Regulations, Docket No. RM79-52 (issued May 5, 1982), 47 FR 20,290 (May 12, 1982); to April 30, 1984, by Amendment to Extend Interim Regulations, Docket No. RM79-52 (issued Apr. 8, 1983), 48 FR 10,057 (Apr. 14, 1983); and to April 30, 1985, by Amendment to Extend Interim Regulations, Docket No. RM79-52 (issued Apr. 30, 1984), 49 FR 20,808 (May 17, 1984).

<sup>4</sup> Inquiry Implementing Section 206 of the Public Utility Regulatory Policies Act of 1978, Continuance of Service, Docket No. RM79-52 (issued Apr. 22, 1980), 45 FR 28,162 (Apr. 28, 1980).

<sup>2</sup> 18 U.S.C. 824a(g) (1982).

<sup>3</sup> 18 CFR 294.101 (1983) (promulgated in Docket No. RM79-52 and issued June 15, 1979, 44 FR 37,500 (June 27, 1979)).

shortages of electricity and the utilities' plans for addressing such shortages. Section 206 does not otherwise explicitly mandate that this Commission must take any particular action regarding such shortages or plans. It is silent as to whether this Commission should approve contingency plans or delineate their content, such as mandating a scheme of service priorities when such shortages are anticipated.

However, the legislative history interprets the statute as investing this Commission with considerably more latitude on the issue of whether it may take further regulatory action on such plans and shortages. It states that "the Commission *can* approve plans submitted \* \* \* on the basis of the [health, safety, welfare and nondiscrimination] criteria \* \* \* and *require* use of these approved plans \* \* \*. [T]he Commission *may* require periodic updating of these plans."<sup>5</sup>

#### *B. The Need for Further Commission Intervention*

After reviewing the comments filed in response to the interim rule and the Notice of Inquiry and considering the Commission's experience under the interim rule in effect, the Commission is convinced that it is not necessary at this time to impose regulatory requirements beyond the ones already established by the interim rule. The burden on the public utilities and the Commission of requiring an additional review mechanism would far outweigh any benefits. Thus, this final rule adopts the approach taken in the interim rule and requires public utilities only to report anticipated shortages and to update their contingency plans.

In considering whether additional Commission regulatory requirements are necessary, the Commission has taken into account the role that other governmental entities—Federal, state, and local—play in dealing with the problem of anticipated shortages of electricity.

#### (1) DOE's Role

The Department of Energy Organization Act in 1977 transferred the authorities of the Federal Power Commission respecting electric power adequacy and emergencies to the Secretary of Energy.<sup>6</sup> The Act also states

that one of its purposes is "to develop plans and programs for dealing with domestic energy production and import shortages." As a result, DOE has established an Office of Energy Emergency Operations and an Office of Energy Contingency Planning. While these offices have focused primarily on fuel supply interruptions, they have included in their planning possible electric power effects and various ways in which electric power transfers could be employed to help relieve various emergencies. These offices are under the direction of the Deputy Assistant Secretary for Energy Emergencies.

Specifically, those offices:

(1) Conduct continuing evaluations of the short-term, mid-term, and long-term prospects for adequacy of power supply, especially generating resources. Annual reports from the Reliability Councils on electric utility expansion plans are a principal information source, together with individual utility contacts. An electric power monitoring function can be activated to maintain weekly, daily, or hourly information on the electric power supply and energy exchange situation.

(2) Gather data on major service interruptions, analyze the causes, and publish reports containing findings and recommendations. All utilities are required to report prospective fuel shortages and major interruptions within 3 hours after their occurrence.

*See generally* Report of Major Electric Utility System Emergencies, 10 CFR 205.350 through 205.379 (1984).

Other Federal agencies such as the Federal Emergency Management Agency and DOE's Energy Information Administration also have a variety of responsibilities regarding electric emergencies.

#### (2) State and Local Roles

In addition to this Federal role, state and local governments play a significant part in addressing the problem of anticipated shortages of electricity. Generally, the focus of most state emergency planning efforts has been on establishing methods to protect public health and safety during blackouts, maintaining communication channels, and meeting life threatening situations. State regulatory authorities have demonstrated their continuous concern about effectiveness of utility planning for power supply adequacy, the need to improve utility operating and maintenance practices, minimizing the frequency and duration of service interruptions, and the need for better utility public information systems to

help the public in coping with emergencies.

These state and local concerns focus on improving the utility's ability to prevent or withstand emergencies. More generally, the broad powers of a state governor can be used in a variety of ways to guide the social response to an emergency. Federal planning for major events has always recognized the essential function of state authorities in determining priorities for energy use and in allocating state energy supplies.

Hence, the Commission agrees with the commenters and its own experience has shown that the current Federal, state, and local system of planning and response to electric energy emergencies has been sufficient to protect the interest of customers of public utilities subject to this Commission's jurisdiction under section 206 of PURPA. There is no apparent need at this time, therefore, to overlay another set of detailed emergency reporting requirements on public utilities, or to develop a plan approval or emergency response function at this Commission.

Accordingly, the Commission believes that the requirements imposed by the interim rule should be made final. The Commission is making two changes to the interim rule. First, the Commission is adding a new paragraph (§ 294.101(d)) to make it clear that a public utility may comply with the filing and reporting requirements in this final rule by filing a report made to any other Federal, state, or local agency if the report contains the information otherwise required by this rule. This flexibility was implicit in the interim rule, but the Commission believes including such a provision in the final rule will improve clarity for the public utilities involved. Second, the Commission is adding a new paragraph (§ 294.101(e)) regarding the number of copies to be filed by electric utilities. The amendment allows utilities filing reports under Part 294 to file an original and two copies with the Commission and one copy to any appropriate state regulatory agency and firm power wholesale customers. The Commission believes it is unnecessary to require the filing of an original and fourteen copies that would otherwise be required by the general rules of practice and procedure (18 CFR 385.2004 (1983)).

#### III. Administrative Procedure Act Requirements

The Commission previously allowed an opportunity for interested parties to comment on the interim rule and the Notice of Inquiry, which raised all of the issues involved in this final rule. The Commission, therefore, finds that a

<sup>5</sup> Conference Report, H.R. Rep. No. 1750, 95th Cong., 2d Sess. 96 (1978) (emphasis added).

<sup>6</sup> 42 U.S.C. § 7151(b) (Supp. V 1981). These emergency authorities reside in sections 202 (a) and (c) of the Federal Power Act, 16 U.S.C. 824a (a), (c) (1982). These authorities have not been delegated to this Commission.

further opportunity for public comment under the Administrative Procedure Act is unnecessary. See 5 U.S.C. 553(b) (1982).

#### IV. Paperwork Reduction Act and Effective Date

The information collection provisions in this notice are being submitted to the Office of Management and Budget (OMB) for its approval under the Paperwork Reduction Act, 44 U.S.C. 3501-3520 (1982) and OMB's regulations, 5 CFR 1320.12 (1983). Interested persons can obtain information on information collection provisions by contacting the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. (Attention: Ken Malloy (202) 357-8033). Comments on information collection provisions can be sent to the Office of Information and Regulatory Affairs of OMB, New Executive Office Building, Washington, D.C. 20503 (Attention: Desk Officer for the Federal Energy Regulatory Commission).

These amendments to the filing requirements will become effective on December 24, 1984. If OMB's approval and control number have not been received by that date, the Commission will issue a notice temporarily suspending the effective date.

#### List of Subjects in 18 CFR Part 294

Electric utilities, Reporting and recordkeeping requirements.

In consideration of the foregoing, Part 294 of Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below.

By the Commission.  
Kenneth F. Plumb,  
Secretary.

#### PART 294—[AMENDED]

1. The authority citation for Part 294 continues to read as follows:

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617, 92 Stat. 3117; Federal Power Act, 16 U.S.C. 792 *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7107 *et seq.*; E.O. 12,009, 42 FR 46,267; Administrative Procedure Act 5 U.S.C. 553)

#### § 294.101 [Amended]

2. In § 294.101, paragraphs (a)(1), (a)(2), and (b)(4) are amended by removing the words, "prior to April 30, 1985,".

3. In § 294.101, paragraph (b)(1) is amended by removing the words "by July 23, 1979," and "if such shortages were to occur prior to September 30, 1979".

4. In § 294.101, new paragraphs (d) and (e) are added, to read as follows:

#### § 294.101 Shortages of Electric Energy and Capacity

\* \* \* \* \*

(d) *Reports to other government entities.* Any report filed with another governmental entity that contains the information that must be reported under this part may be filed to comply with this part.

(e) *Number of copies.* Any public utility that files under this part must provide an original of any filing and at least two exact copies to this Commission and one copy to any state regulatory authority and firm power wholesale customers, unless otherwise required by the Commission.

[FR Doc. 84-26543 Filed 10-5-84; 8:45 am]

BILLING CODE 6717-01-M

#### 18 CFR Part 385

[Docket No. RM84-21-000; Order No. 402]

#### Rules of Practice and Procedure; Interlocutory Appeals

Issued: October 5, 1984.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Final rule.

**SUMMARY:** The Federal Energy Regulatory Commission is amending its Rules of Practice and Procedure to require that any person filing an interlocutory appeal must serve an additional copy of the appeal on the Motions Commissioner by Express Mail or hand delivery. In addition, the appellant must add the words "INTERLOCUTORY APPEAL" below the docket designation in the caption of its filings. These two amendments will alleviate practical and administrative difficulties in meeting the seven-day period for acting on appeals.

**EFFECTIVE DATE:** This rule is effective October 5, 1984.

**FOR FURTHER INFORMATION CONTACT:** Joseph R. Hartsoe, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE Washington, D.C. 20426, (202) 357-8033.

#### SUPPLEMENTARY INFORMATION:

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon and Oliver G. Richard III.

Rules of Practice and Procedure: Interlocutory Appeals Docket No. RM84-21-000, Order No. 402. Final Rule.

The Federal Energy Regulatory Commission (Commission) is amending Rule 715(c) of its Rules of Practice and Procedure, 18 CFR 385.715(c) (1983), which governs the appeal of a presiding officer's denial of a motion to permit an

interlocutory appeal. The amendment requires that any person filing an interlocutory appeal must serve an additional copy of the appeal to the Motions Commissioner by Express Mail or hand delivery. In addition, the Commission is revising Rule 2002, 18 CFR 2002 (1983), to require a participant to add the words "INTERLOCUTORY APPEAL" below the docket designation in the caption of its filing.

Under current Rule 715(c)(5), the Motions Commissioner has seven days after filing to act upon a participant's appeal of a presiding officer's denial of a motion for interlocutory appeal under Rule 715(b). Within those seven days, the Motions Commissioner must: (1) obtain the participant's filing; (2) consider whether the information presented is sufficiently complete; and (3) determine whether extraordinary circumstances exist which make prompt Commission review of the contested ruling necessary to prevent detriment to the public interest or to prevent irreparable harm to a person. If a no extraordinary circumstances determination is made within seven days after the appeal is filed and if the Motions Commissioner has not otherwise provided for a different time period to receive and consider additional information, the appeal is automatically denied under Rule 715(c)(5).

The Commission has found that deciding whether to grant an interlocutory appeal within the seven-day period provided in Rule 715(c)(5) can be difficult. On occasion, it has taken the full seven days simply to obtain the appeal filed by the participant and to begin to analyze the issues involved. In these circumstances, there is insufficient time to reach a decision on whether the information is complete enough and, if so, to decide whether extraordinary circumstances are present.

The Commission is alleviating these practical and administrative difficulties by making two amendments to its Rules of Practice and Procedure. First, those filing on interlocutory appeal under Rule 715(c)(5) must serve an additional copy to the Motions Commissioner by Express Mail or by hand delivery. This change should permit full and fair consideration of an interlocutory appeal without causing a lengthy delay in the proceedings. Second, a participant filing an appeal of a presiding officer's denial of a motion for interlocutory appeal under Rule 715(c) must now include the words "INTERLOCUTORY APPEAL" underneath the docket designation. This will enable the Commission staff to

identify these filings quickly and to ensure that the appeal is routed on an expedited basis.

Because this final rule is a matter of agency organization, procedure, and practice, prior notice and comment are unnecessary under section 4 of the Administrative Procedure Act, 5 U.S.C. § 553(b) (1982). In addition, the Commission finds that this rule will improve the handling and consideration of requests for interlocutory appeals and will thereby benefit the participants in Commission proceedings. Therefore, this rule will become effective immediately upon issuance, pursuant to 5 U.S.C. § 553(d) (1982).

#### List of Subjects in 18 CFR Part 385

Administrative practice and procedure.

Accordingly, the Commission, effective immediately, amends Part 385 of Title 18, Chapter I, Code of Federal Regulations, as set forth below.

By the Commission.  
Kenneth F. Plumb,  
Secretary.

#### PART 385—[AMENDED]

1. In § 385.715, paragraphs (c)(1) and (c)(2) are amended by adding a new sentence at the end of each paragraph, to read as follows:

§ 385.715 Interlocutory appeals to the Commission from rulings of presiding officers (Rule 715).

(c) *Appeal of a presiding officer's denial of motion to permit appeal.* (1) \* \* \* Any person filing an appeal under this paragraph must serve a separate copy of the appeal on the Motions Commissioner by Express Mail or by hand delivery.

(2) \* \* \* The appeal must be labeled in accordance with § 385.2002(b) of this chapter.

2. In § 385.2002, paragraphs (b), (c), and (d) are redesignated as (c), (d), and (e) respectively, and a new paragraph (b) is added to read as follows:

§ 385.2002 Caption of filings (Rule 2002).

(b) The words "INTERLOCUTORY APPEAL" underneath the docket designation if the filing is an appeal under Rule 715(c) of a presiding officer's denial of a motion for an interlocutory appeal;

3. The authority citation of Part 385 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982);

Executive Order 12,009, 3 CFR 142 (1978); Administrative Procedure Act, 5 U.S.C. 551-557 (1982); Independent Offices Appropriation Act, 31 U.S.C. 8701 (1982); Natural Gas Act, 15 U.S.C. 717-717w (1982); Federal Power Act, 16 U.S.C. 791a-828c (1982); Natural Gas Policy Act, 15 U.S.C. 3301-3432 (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601-2645 (1982); Interstate Commerce Act, 49 U.S.C. 1-27 (1976), unless otherwise noted.

[FR Doc. 84-26541 Filed 10-5-84; 8:45 am]  
BILLING CODE 6717-01-M

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Food and Drug Administration

#### 21 CFR Parts 510 and 558

##### Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration.  
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for four approved new animal drug applications (NADA's) (tylosin, tylosin-sulfamethazine, lincomycin, and pyrantel tartrate) from Feed Fortifiers, Inc., to Nutrius, Inc. Nutrius submitted supplemental NADA's providing for the change.  
EFFECTIVE DATE: October 9, 1984.

FOR FURTHER INFORMATION CONTACT: David L. Gordon, Center for Veterinary Medicine (HFV-238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: Nutrius, Inc., Two Brecksville Commons, 8221 Brecksville Rd., Brecksville, OH 44141, submitted supplements to NADA's 93-518 (tylosin), 98-639 (tylosin-sulfamethazine), 119-063 (pyrantel tartrate), and 132-659 (lincomycin) to provide for a change of sponsor from Feed Fortifiers, Inc., Manson, IA 50563. In addition, Feed Fortifiers informed the agency of the change. Nutrius acquired the assets of Feed Fortifiers including facilities and NADA's. This change of sponsor does not involve any changes in manufacturing facilities, equipment, procedures, or production personnel. The regulations are amended to reflect the sponsor change.

As a result of this action, Feed Fortifiers is no longer the sponsor of an approved NADA. Nutrius has not previously been listed in the list of sponsors of approved NADA's in 21 CFR 510.600. The section is amended to delete the entries for Feed Fortifiers and to add Nutrius.

#### List of Subjects

##### 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting requirements.

##### 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.83), Parts 510 and 558 are amended as follows:

#### PART 510—NEW ANIMAL DRUGS

1. Part 510 is amended in § 510.600 in paragraph (c)(1) by removing the entry for Feed Fortifiers, Inc., and by adding a new entry alphabetically, and in paragraph (c)(2) by removing the entry for "017255" and by adding a new entry numerically, to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

(c) \* \* \*  
(1) \* \* \*

Firm name and address	Drug labeler code
Nutrius, Inc., Two Brecksville Commons, 8221 Brecksville Rd., Brecksville, OH 44141	051359

(2) \* \* \*

Drug labeler code	Firm name and address
051359	Nutrius, Inc., Two Brecksville Commons, 8221 Brecksville Rd., Brecksville, OH 44141

#### PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

2. Part 558 is amended:

§ 558.321 [Amended]

a. in § 558.325 *Lincomycin* in paragraph (b)(5) by removing the number "017255" and inserting in its place "051359".

§ 558.485 [Amended]

b. In § 558.458 *Pyrantel tartrate* in paragraph (a)(7) by removing the number "017255" and inserting in its place "051359".

**§ 558.625 [Amended]**

c. In § 558.625 *Tylosin* in paragraph (b)(2) by removing the number "017255" and inserting in its place "051359".

**§ 558.630 [Amended]**

d. In § 558.630 *Tylosin and sulfamethazine* in paragraph (b) (3) and (9) by removing the number "017255" and inserting in its place "051359".

*Effective date.* October 9, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: September 28, 1984.

Marvin A. Norcross,  
*Acting Associate Director for Scientific Evaluation.*

[FR Doc. 84-26551 Filed 10-5-84; 8:45 am]

BILLING CODE 4160-01-M

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1.**

[T.D. 7982]

**Income Tax; Energy Investment Credit for Qualified Intercity Buses**

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations relating to the availability of the energy investment credit for qualified intercity buses. The Crude Oil Windfall Profit Tax Act of 1980 added qualified intercity buses to the list of energy property. The regulations provide the public with the guidance needed to comply with this legislation.

**DATES:** The amendments are effective for the period beginning on January 1, 1980, and ending December 31, 1985.

**FOR FURTHER INFORMATION CONTACT:** Michel A. Dazé of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T (202-566-3458, not a toll-free call).

**SUPPLEMENTARY INFORMATION:****Background**

This document contains final amendments to the Income Tax Regulations (26 CFR Part 1) under section 48(l)(16) of the Internal Revenue Code of 1954, relating to the energy investment credit for qualified intercity buses. These regulations were published in proposed form in the Federal Register on September 3, 1982 (47 FR 38918). A few comments were received suggesting various changes to the proposed amendments. There were no requests for

a public hearing and none was held. With only minor revisions, the proposed regulations are adopted by this Treasury decision.

**Effective Date**

The notice of proposed rulemaking was published in the Federal Register approximately two and one-half years after section 48(l)(16) became effective. One comment objects to a retroactive application of the final regulations because the statutory language and the legislative history provided the only guidance to taxpayers during that time period. Since these regulations are interpretative, the final regulations are effective for the entire period during which section 48(l)(16) is in effect.

**Eligible Taxpayers**

Section 48(l)(16)(A)(i) allows the energy investment credit (energy credit) for qualified intercity buses (qualifying buses) only to common carriers regulated by either the Interstate Commerce Commission or an appropriate State agency. The final regulations adopt the definition of a common carrier in the Revised Interstate Commerce Act as published in the proposed regulations. If the taxpayer is engaged wholly in intrastate commerce, the standard for the appropriateness of a State agency is also taken from that Act. One comment observed that an operator of only intrastate service in a State which has deregulated the bus industry would be regulated by neither the Interstate Commerce Commission nor an appropriate State agency. He suggested that the definition of a common carrier should be modified so that these operators are not denied the energy credit. This suggestion was not adopted. There is no statutory authority for the Secretary to waive the requirement of regulation by a Federal or State agency. In some cases, an intrastate carrier may satisfy the requirement by registering with the Interstate Commerce Commission.

**Leased Buses**

Section 1.48-9(q)(7)(iv) of the proposed regulations contained rules for determining whether a leased bus is energy property and the eligibility of either the lessor or the lessee of that bus to claim the energy investment credit. This Treasury decision reserves paragraph (q)(8) for new rules relating to leased buses and does not adopt paragraph (q)(7)(iv) as proposed. Rules for determining whether a leased bus is energy property and the eligibility of a taxpayer to claim the energy credit for that bus are repropounded elsewhere in this issue of the Federal Register.

**Intercity Transportation**

The proposed regulations define intercity transportation by reference to the definition of commercial zones in the Revised Interstate Commerce Act (49 U.S.C. 10526(b)(1)). Transportation not provided entirely within a commercial zone is intercity transportation. Two comments object that the definition of intercity transportation is overly restrictive, that it does not carry out the intent of Congress in enacting the credit, and that it introduces excessive complexity to the regulations. The definition of a qualifying bus in section 48(l)(16)(B) includes the intercity transportation requirement and is intended to distinguish intercity buses from local transit buses (H.R. Rep. No. 96-817, 96th Cong., 2d Sess. 134 (Conference Report, 1980)). The regulations (49 CFR Part 1048) promulgated by the Department of Transportation to define commercial zones provide an easily applied, objective measure of the boundaries within which buses will be used for local transit. Accordingly, the final regulations adopt the definition of intercity transportation without change.

**Increase in Operating Seating Capacity**

Under section 48(l)(16)(C), qualified investment for a qualifying bus is taken into account for the energy credit only to the extent that the bus increases the taxpayer's operating seating capacity (operating capacity). Only a bus used predominantly on a full-time basis in the trade or business of furnishing intercity transportation will be counted in operating capacity.

Under the proposed regulations, in order to meet the definition of a qualifying bus and to be counted in operating capacity, the bus must satisfy the full-time use requirement and pass two 90 percent tests. Proposed § 1.48-9(q)(7). To be used full time, a bus must be driven at least 10,000 miles during the taxable year. That figure is prorated on a daily basis for buses placed in service during the taxable year or for a short taxable year described in section 441(b)(3). Ninety percent or more of those miles must be driven to provide passenger transportation or charter service (passenger service), not necessarily intercity. Of the miles driven to provide passenger service, 90 percent or more must be for intercity transportation. Thus, up to 10 percent of annual miles may be driven for non-passenger purposes, such as for maintenance, and up to 10 percent of the passenger miles may be driven on local runs.



In response to a comment, the final regulations clarify that odometer readings will be considered the best evidence of annual miles driven. Another comment suggests that an operator should be permitted to keep records of miles traveled on a fleet-wide basis, rather than for individual buses. To be eligible for the energy credit, a newly acquired bus must increase, and therefore be included in, total operating capacity. With fleet-wide record keeping, it is possible that several new buses will, on the average, satisfy the use requirement of section 48(l)(16)(C)(ii) for a taxable year, while individually not every new bus would be included in operating capacity and thus eligible for the energy credit. Therefore, the suggestion is not adopted.

One comment argues that the requirement that 81% of total miles must be driven to furnish intercity passenger transportation is an interpretation of predominant use inconsistent with predominant use standards appearing elsewhere in the Code. The writer referred to § 48.4221-11(b)(2) and temporary § 142.1-1(e) which interpret use of a bus predominantly for a particular purpose to mean that more than 50 percent of its hours of use and miles driven are for that purpose. However, this objection ignores the additional requirement in section 48(l)(16)(C) that in order for a bus to be included in operating capacity, it must be used "predominantly on a full-time basis" to furnish intercity passenger transportation.

A second comment finds the proposed predominant use test unfair to small and medium-sized carriers who, in order to maximize revenue, must provide more non-qualifying service than allowed in the proposed regulations. The comment suggests that only 70 percent of the passenger miles should be driven to furnish intercity transportation. The final regulations retain the requirement of 10,000 miles of total use and adopt the requirement that at least 70 percent of the miles be driven while furnishing intercity passenger transportation or intercity charter service.

Proposed § 1.48-9(q)(8)(ii) defines operating capacity as the combined seating capacities of all buses in the taxpayer's fleet which are intercity buses in a taxable year. Two comments suggest that it is unclear whether this provision could be interpreted to require including in operating capacity all intercity buses that have met the predominant use test during the year, whether or not they are owned by the taxpayer at the end of the year. Since this interpretation could result in an

artificial increase in operating capacity for a taxable year in which an operator replaces an old bus with a qualifying bus, the final regulations make clear that operating capacity includes only buses owned at the end of the year.

Under the proposed regulations, if the increase in operating capacity for a taxable year is less than the total seating capacities of buses added during the year, the qualified investment attributable to the increase in operating capacity is determined by multiplying the qualified investment for the regular investment credit by the ratio of increase in capacity to added capacity. Increase in capacity is the difference between the prior year's operating capacity and the present year's operating capacity. Added capacity is the number of seats included in the present year's operating capacity which were not included in the prior year's operating capacity. Any bus contributing to an increase will be counted as added capacity, including a bus ineligible for the energy credit, because, for example, it is acquired used.

One comment suggests an amendment to the proposed regulations to allow an operator to allocate all of its increase in operating capacity to one or more qualifying buses. A second suggestion would exclude from added capacity a replacement bus that is ineligible for the energy credit. Neither amendment is adopted. Ratable allocation of increase in operating capacity to an operator's qualified intercity buses provides an even-handed method of determining qualified investment for the energy credit.

#### Recapture of Energy Credit

Under the proposed regulations, the energy credit would be recaptured in a year in which a qualifying bus ceases to be energy property with respect to the taxpayer. One comment suggests that the cessation of energy property status should be deemed to occur on the last day of the taxable year in which a bus fails to qualify. This suggestion is not adopted because it is inconsistent with § 1.47-1(c)(ii)(b) which provides that a cessation shall be treated as having occurred on the first day of the taxable year when the event causing cessation does not occur on a specific date.

#### Executive Order 12291 and Regulatory Flexibility Act

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although a notice of proposed rulemaking that solicited

public comment was issued, the Internal Revenue Service concluded when the notice was issued that the regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 did not apply. Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act 5 U.S.C. Chapter 6).

#### Drafting Information

The principal author of these final regulations is Michel A. Dazé of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

#### List of Subjects in 26 CFR Part 1

Income taxes, Tax liability, Tax rates, Credits.

#### Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 is amended as follows:

#### PART 1—[AMENDED]

Paragraph 1. Section 1.46-3(f)(1) is amended by adding at the end thereof the following new sentence:

#### § 1.46-3 Qualified Investment.

\* \* \*

(f) *Partnerships*—(1) *In general.* \* \* \* For computation of each partner's qualified investment for the energy credit for a qualified intercity bus, see § 1.48-9(q)(9)(iv).

\* \* \*

Par. 2. Section 1.47-1(h)(3) is amended by:

1. Inserting "(i)" between "(3) Cessation." and "The term", and
2. By adding new paragraph (h)(3)(ii) to read as set forth below.

#### § 1.47-1 Recomputation of credit allowed by section 38.

\* \* \*

(h) *Special rules for energy property.*

\* \* \*

(3) *Cessation.* \* \* \*

(ii) A qualified intercity bus described in § 1.48-9(q) must meet the predominant use test (of § 1.48-9(q)(7)) for the remainder of the taxable year from the date it is placed in service and for each taxable year thereafter. A cessation occurs in any taxable year in which the bus is no longer a qualifying bus under § 1.48-9(q)(6). A qualified intercity bus does not cease to be energy property for a taxable year subsequent

to the one in which it was placed in service by reason of a decrease in operating capacity (see § 1.48-9(q)(9)) for that year compared to any prior taxable year.

Par. 3. Section 1.48-9 is amended by adding and reserving paragraphs (o), (p), and by adding paragraph (q) to read as follows:

**§ 1.48-9 Definition of energy property.**

(o) [Reserved].

(p) [Reserved].

(q) *Qualified intercity buses*—(1) *In general.* This paragraph (q) prescribes rules and definitions for purposes of section 48(l)(2)(A)(ix) and (16). Energy property includes qualified intercity buses of an eligible taxpayer, but only to the extent of the increase in the taxpayer's total operating seating capacity (operating capacity) under paragraphs (q) (9), (10), and (11) of this section. For application of recapture rules see § 1.47-1(h)(3)(ii).

(2) *Eligible taxpayer.* A taxpayer is an eligible taxpayer only if it is determined to be both—

(i) A common carrier regulated by the Interstate Commerce Commission or an appropriate State agency and

(ii) Engaged in the trade or business of furnishing intercity transportation by bus.

(3) *Common carrier.* The taxpayer is a common carrier only if the taxpayer holds itself out to the general public as providing passenger bus transportation for compensation over regular or irregular routes, or both.

(4) *Appropriate State agency.* A State agency is appropriate only if it has both—

(i) Power to regulate intrastate transportation provided by a motor carrier, within the meaning of section 10521(b)(1) of the Revised Interstate Commerce Act (49 U.S.C. 10521(b)(1)), and

(ii) Power to initiate an exemption proceeding under section 1025(b) of that Act (49 U.S.C. 1025(b)).

(5) *Intercity transportation.* Intercity transportation means intercity passenger transportation or intercity passenger charter service. Intercity transportation does not include transportation provided entirely within a municipality, contiguous municipalities, or within a zone that is adjacent to, and commercially a part of, the municipality or municipalities (within the meaning of section 10526(b)(1) of the Revised Interstate Commerce Act (49 U.S.C. 10526(b)(1))). See 49 CFR Part 1048 (regulations defining commercial zones under that statute).

(6) *Definition of qualified intercity bus.* A qualified intercity bus (qualifying bus) is an automobile bus—

(i) The chassis and body of which are exempt (under section 4063(a)(6)) from the 10-percent excise tax generally imposed under section 4061(a) on trucks and buses.

(ii) With a seating capacity of at least 36 passengers (in addition to the driver).

(iii) With one or more baggage compartments, in an area separated from the passenger area, with an aggregate capacity of at least 200 cubic feet, and

(iv) Which meets the predominant use test.

(7) *Predominant use test.* (i) A bus meets the predominant use test for a taxable year only if it meets the following conditions:

(A) It is used on a full-time basis during the taxable year, and

(B) At least 70 percent of the total miles driven are driven while furnishing intercity transportation.

(ii) A bus driven from the end point of one trip to the beginning point of another trip ("deadheading"), both of which furnish intercity transportation of passengers, will be considered to have been driven while furnishing intercity transportation of passengers, even if no passengers are carried.

(iii) A bus is considered used on a full-time basis in a taxable year if it was driven 10,000 miles in that year. If available, the best evidence of annual mileage is the difference odometer readings at the beginning and end of each taxable year. If the bus was placed in service during the taxable year, or for a short taxable year described in section 441(b)(3), that 10,000 mile figure is prorated on a daily basis.

(iv) If a qualifying bus fails to meet the predominant use test in a taxable year, a cessation occurs in that taxable year. See § 1.47-1(h)(3)(ii).

(v) The following examples illustrate this paragraph (g)(7):

*Example (1).* X, a bus company, used a bus for trips between city M and city N, a distance of 100 miles. These trips qualify as furnishing intercity transportation. During the taxable year, 300 round trips were run carrying passengers both ways and 75 trips were run carrying passengers from city M to city N immediately after each of which the bus was returned to city M for the next trip. The bus was also driven 20,000 miles to furnish passenger service which was local transportation. During the taxable year, the bus was driven a total of 100,000 miles. X makes the following calculations to determine if it met the predominant use test for the taxable year.

1. Total miles driven.....	100,000
2. Intercity miles driven:	
a. Passenger round trips (100 x 2 X 300).....	60,000
b. Passenger one-way (75 x 100).....	7,500
c. Non-passenger return trips (75 x 100).....	7,500
3. Total intercity passenger miles (sum of lines 2 a, b, and c).....	75,000
4. 79% of line 1.....	79,000

Since line 1 is not less than 10,000 miles, the full-time use requirement is met. Since line 3 is greater than line 4, the 70 percent intercity mileage test is met. Thus, for the taxable year, the bus meets the predominant use test in paragraph (q)(7)(i) of this section.

*Example (2).* The facts are the same as in example (1), except that the bus was placed in service on the last day of the taxable year. The bus was used only to run one round trip, carrying passengers, between cities M and N. 10,000 miles X one day ÷ 365 days = 27.4 miles. Because, for the one day of the taxable year that the bus was in service, the bus was driven more than 27.4 miles, and all these miles were driven to furnish intercity transportation, it met the predominant use test for the taxable year.

(8) *Leased buses.* [Reserved].

(9) *Operating capacity.* (i) Qualified investment for a qualifying bus is taken into account for the energy credit only to the extent the bus increases the taxpayer's operating capacity. To increase operating capacity, a bus must be counted in operating capacity. The increase in a taxpayer's operating capacity is the excess of the taxpayer's operating capacity for the current taxable year over its operating capacity for the immediately preceding taxable year. Related taxpayers determine operating capacity on a group basis under paragraph (q)(10) of this section.

(ii) Operating capacity for a particular taxable year is determined by adding together the seating capacities of all intercity buses used by the taxpayer in that year and still owned by the taxpayer at the end of that year. An intercity bus is a bus which meets the chassis and body test and the predominant use test in paragraph (q)(6) of this section whether or not the bus is still in use at the end of the taxable year. In the case of a leased bus to which paragraph (q)(8) of this section applies, the lessee's operating capacity determines qualified investment for the energy credit.

(iii) The qualified investment for the energy credit for a qualifying bus is the bus's qualified investment for the regular credit multiplied by a fraction. The numerator of the fraction is the increase in the taxpayer's operating capacity for the taxable year. The denominator is the added operating capacity for the taxable year. Added operating capacity for the taxable year is determined for a taxpayer by adding together the seating capacities of the



taxpayer's intercity buses included in operating capacity for the taxable year which were not included in operating capacity for the immediately preceding taxable year.

(iv) In the case of a partnership, each partner's qualified investment for the energy credit for a qualifying bus is the partner's qualified investment for the regular credit (determined under § 1.46-3(f) multiplied by the fraction referred to in paragraph (q)(9)(iii) of this section for the partnership, as determined for the partnership taxable year in which the bus is placed in service.

(v) The following example illustrates this paragraph (q)(9):

**Example.** Corporation Y is a calendar year bus company that is an eligible taxpayer under paragraph (q)(2) of this section. Based upon the facts as set forth in the following table, Y makes the following calculations to determine the energy credit earned in 1981:

1. 1980 operating capacity determined as of 12/31/80:	
a. 5 intercity buses × 50 seats each	250
b. Total 1980 operating capacity	250
2. 1981 operating capacity determined as of 12/31/81:	
a. 2 1980 buses used on a full-time basis in 1981	100
b. 1981 added capacity:	
i. Qualifying buses:	
Bus 1	45
Bus 2	55
Bus 3	50
ii. Intercity bus not a qualifying bus	50
iii. Total 1981 added capacity	200
c. Total 1981 operating capacity	300
3. 1981 increase in operating capacity (line 2c—line 1b)	50
4. Fraction for determining qualified investment attributable to increase in capacity (line 3+line 2 (b)(ii))	1/6

Accordingly, the energy credit earned in 1981 for each of the qualifying buses is determined as follows:

Qualified investment for the regular credit	×	Line 4	×	Energy percentage	=	Energy credit earned
Bus 1: \$15,000		1/6		10		\$375
Bus 2: \$20,000		1/6		10		\$500
Bus 3: \$25,000		1/6		10		\$625
Total energy credit earned in 1981						1,500

(10) **Related taxpayers.** (i) Related taxpayers are treated as one taxpayer in determining the increase in operating capacity under paragraph (q)(9)(ii) of this section and in determining the qualified investment in qualified intercity buses for the energy credit under paragraph (q)(9)(iii) of this section. Related taxpayers are members of a group of trades or businesses that are under common control (as defined in § 1.52-1(b)).

(ii) Related taxpayers make all computations relating to operating

capacity on a group basis. Also, the determination of whether a bus meets the predominant use test is made on a group basis by aggregating bus usage by each member of the group. For example, if a bus is acquired by one member and used by that member for part of a taxable year and used by other members for the remainder, the combined usage is aggregated in determining whether the predominant use test is met. In addition, all related taxpayers are treated as one person in applying paragraph (q)(8) of this section (relating to leasing).

(iii) The energy credit earned for a qualifying bus is allocated to the member which acquired (or is a lessee treated under section 48(d) as having acquired) the bus whether or not that member had a separate increase in operating capacity for the taxable year.

(iv) Each member must make its own computation of the group's increase in operating capacity for the period comprising its taxable year. A member will make this computation as of the end of its taxable year ignoring different taxable years of other members. For the period comprising its taxable year, the member makes all calculations relating to group operating capacity, including the determination of full-time use by other members.

(v) Each member determines the composition of the group as of the end of that member's taxable year. For example, if X uses the calendar year and makes its computation as of December 31, 1981, and Y is a member of X's group at that time, Y's operating capacity determined as of the end of X's immediately preceding taxable year (December 31, 1980) is taken into account by X for 1980 even if Y was not a member of the group for any day prior to December 31, 1981.

(vi) The following example illustrates this paragraph (q)(10):

**Example (a).** Corporations X and Y are related taxpayers. In this example, each bus is a qualifying bus with a seating capacity of 50. Each bus owned at the close of either X's or Y's taxable year was used on a full-time basis for the relevant period corresponding to X's or Y's taxable year. Other facts are set forth in the following table:

	X	Y
Taxable year ends	Dec. 31	June 30
Operating capacity for 1979	5 buses	10 buses
Buses added	3 buses Mar. 1, 1980	3 buses May 15, 1981
Buses sold	2 buses Mar. 31, 1981	2 buses Sept. 30, 1980
Cost of each added bus	\$40,000	\$60,000

(b) X makes the following calculations to determine the energy credit earned for calendar year 1980.

1. 1979 operating capacity determined as of 12/31/79:	
a. Attributable to X (5 buses × 50 seats)	250
b. Attributable to Y (10 buses × 50 seats)	500
c. Total 1979 operating capacity	750
2. 1980 operating capacity determined as of 12/31/80:	
a. X's 5 and Y's 8 1979 buses used on a full-time basis in 1980 and still owned on 12/31/80	650
b. 1980 added capacity (X's 3 buses × 50 seats)	150
c. Total 1980 operating capacity	800
3. 1980 increase in operating capacity (line 2c—line 1c)	50
4. Fraction in paragraph (q)(9)(v) of this section (line 3+line 2b)	1/6

Accordingly, X earned an energy credit of \$4,000 in 1980 (\$40,000 × 1/6 × 10% × 3 buses).

(c) Since in calendar year 1981 X placed no qualifying buses in service, X earned no energy credit in 1981.

(d) Since in the taxable year 7/1/79-6/30/80 Y placed no qualifying buses in service, Y earned no energy credit in that taxable year.

(e) Y makes the following calculations to determine the energy credit earned in the taxable year 7/1/80-6/30/81.

1. Operating capacity for the taxable year ending 6/30/81 determined as of the close of that year:	
a. Attributable to X (8 buses × 50 seats)	400
b. Attributable to Y (10 buses × 50 seats)	500
c. Total operating capacity for that year	900
2. Operating capacity for the taxable year ending 6/30/81 determined as of the close of that year:	
a. X's 6 and Y's 8 buses from prior taxable year used on a full-time basis during current taxable year and still owned on 6/30/81	700
b. Capacity added during current taxable year (Y's 3 buses × 50 seats)	150
c. Total operating capacity for that year	850
3. Increase in operating capacity for taxable year ending 6/30/81 (line 2c—line 1c)	(50)

As determined for Y's taxable year ending 6/30/81 the group experienced a decrease in operating capacity. Thus, no energy credit is available for the buses Y placed in service in its taxable year ending 6/30/81.

(11) **Section 381(a) transactions.** (i) In the case of a transaction described in section 381(a), the operating capacity of each transferor or distributor corporation, determined as of the date of distribution or transfer (within the meaning of § 1.381(b)-1(b)), shall reduce the operating capacity of the acquiring corporation (determined without this paragraph (q)(11)) for its first taxable year ending on or after that date for purposes of determining the acquiring corporation's energy credit for that year. This paragraph (q)(11) shall not apply to any case to which paragraph (q)(10) of this section (dealing with related taxpayers) applies.

(ii) The following example illustrates this paragraph (q)(11):

**Example.** X and Y are unrelated corporations which use the calendar year. For

1981, each has an operating capacity of 250 seats (5 buses×50 seats). X merges into Y on January 1, 1982. On May 1, 1982, Y retires and sells two buses and acquires four 50-seat qualifying buses at a cost of \$40,000 each. All buses owned by Y on December 31, 1982, are included in operating capacity. Y makes the following calculations to determine the energy credit earned in taxable year 1982.

1. Y's 1981 operating capacity determined as of 12/31/81.....	250
2. 1982 operating capacity determined as of 12/31/82 without this paragraph (q)(11):	
a. X's 5 buses plus Y's 5 1981 buses less 2 retired buses (8 buses×50 seats).....	400
b. 1982 added capacity (4 buses×50 seats).....	200
c. Total.....	600
3. Operating capacity of transferor (X) on 1/1/82.....	250
4. Y's 1982 operating capacity (line 2c—line 3).....	350
5. 1982 increase in operating capacity (line 4—line 1).....	100
6. Fraction in paragraph (q)(9)(iii) of this section (line 5÷line 2b).....	1/6
7. Energy credit earned in 1982 (\$40,000×1/6×10%×4 buses).....	\$8,000

Par. 4 Section 1.381(c)(23)-1 is amended by adding and reserving paragraph (i) and by adding paragraph (j) to read as follows:

§ 1.381(c)(23)-1 Investment credit carryovers in certain corporate acquisitions.

(i) [Reserved]

(j) Carryover of operating capacity for qualified intercity bus. For rules for determining an acquiring corporation's qualified investment for the energy credit for a qualified intercity bus, see § 1.48-9(q)(ii).

This Treasury decision is issued under the authority contained in Code sections 38(b) (76 Stat. 963, 26 U.S.C. 38(b)), 48(l)(16) (94 Stat. 264, 26 U.S.C. 48(l)(16)), and 7805 (68A Stat. 917, 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,  
Commissioner of Internal Revenue.

Approved: September 25, 1984.

Ronald A. Pearlman,  
Acting Assistant Secretary of the Treasury.

[FR Doc. 84-26659 Filed 10-5-84; 8:45 am]

BILLING CODE 4830-01-M

## 26 CFR Part 41

[T.D. 7970]

### Heavy Vehicle Use Tax; Tax on Diesel Fuel; Tax on the Sale of Piggyback Trailers; Extension of Payment Due Date for Certain Fuel Taxes; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to temporary rule.

SUMMARY: This document contains a correction to the Federal Register publications beginning at 49 FR 34466 of the temporary regulations which were

the subject of Treasury Decision 7970 relating to the imposition of heavy vehicle use tax, the increase of the tax on diesel fuel, the reduction for a one-year period of the tax on the sale of piggyback trailers and semitrailers, and the extension of the payment due date for certain fuel taxes.

**EFFECTIVE DATE:** The regulations relating to the heavy vehicle use tax are effective after June 30, 1984. The regulations relating to the tax on diesel fuel are effective after July 31, 1984. The regulations relating to the tax on the sale of piggyback trailers are effective for piggyback trailers sold at retail after July 17, 1984, and before July 18, 1985.

The regulations relating to the fuel tax payment date are effective for certain fuel taxes due after March 31, 1983. The correction is to be effective with respect to the same dates.

**FOR FURTHER INFORMATION CONTACT:** B. Faye Easley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3935 (not a toll-free call).

#### SUPPLEMENTARY INFORMATION:

##### Background

On August 31, 1984, the Federal Register published temporary regulations (49 FR 34466) relating to heavy vehicle use tax under sections 4481, 4482, and 4483 of the Internal Revenue Code of 1954, as amended by section 513 of the Highway Revenue Act of 1982 (Title V of the Surface Transportation Assistance Act of 1982) (Pub. L. 97-424, 96 Stat. 2177) and sections 901, 902, and 903 of the Tax Reform Act of 1984 (Division A of the Deficit Reduction Act of 1984) (Pub. L. 98-369, 98 Stat. 1003). The document also contained temporary regulations in the form of questions and answers relating to an increase in the tax on diesel fuel under section 4041(a) of the Code, a credit or refund to original purchasers of diesel-powered automobiles and light trucks under section 6427 (g) of the Code, and an exemption of certain buses from the diesel fuel tax under section 6427(b)(2) of the Code as amended by sections 911(a), 911(b), and 915 of the Tax Reform Act of 1984, respectively. Also contained were temporary regulations in the form of questions and answers relating to a reduction in the retailers excise tax on the sale of piggyback trailers and semitrailers under section 4051(d) of the Code as amended by section 921 of the Tax Reform Act of 1984. Also included were questions and answers relating to an extension of the payment due date

for certain fuel taxes under section 518(a) of the Highway Revenue Act of 1982 as amended by section 734(f) of the Tax Reform Act of 1984.

#### Need for Correction

As published, Treasury Decision 7970 incorrectly includes the word "twenty" rather than the word "ten" on page 34470, in the first line of the right-hand column.

#### Correction of Publication

Accordingly, the publication of Treasury Decision 7970 which was the subject of FR Doc. 84-23130 (August 31, 1984) is corrected on page 34470 (§ 41.4481-1T(f), Example 6) by removing the word "twenty" from the first line in the third column and adding the word "ten" in its place.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 84-26660 Filed 10-5-84; 8:45 am]

BILLING CODE 4830-01-M

## VETERANS ADMINISTRATION

### 38 CFR Part 21

#### Veterans Education; Medical-Dental Internships and Residencies

AGENCY: Veterans Administration.

ACTION: Final regulations.

**SUMMARY:** The regulation which the VA (Veterans Administration) uses in determining whether to recognize medical and dental residencies as institutional training under the GI Bill has become outdated. Changes in accrediting associations and the structure of medical and dental residencies are reflected in the amended regulation. This regulation states how the VA will determine which residencies are institutional training under the GI Bill.

**EFFECTIVE DATE:** September 19, 1984.

**FOR FURTHER INFORMATION CONTACT:** June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420 (202-389-2092).

**SUPPLEMENTARY INFORMATION:** On pages 12718 and 12719 of the Federal Register of March 30, 1984, there was published a notice of intent to amend part 21 in order to state which residencies are institutional training under the GI Bill and how these residencies will be measured.

Interested people were given 30 days in which to submit comments, suggestions or objections. The VA received one letter containing a suggestion from a dean at the Ohio College of Podiatric Medicine.

He suggested that the regulation be amended to include residencies in podiatric medicine. He thought that if the VA did so, it would improve the chances of establishing these residencies at VA hospitals.

Whether or not the VA recognizes a residency as institutional training for determining payment of educational assistance allowance has no bearing upon whether that type of residency will be established in a VA hospital. Nevertheless, the agency seriously considered this suggestion.

The law allows the VA to pay educational assistance allowance for all courses generally accepted as necessary to reach the objective of the veteran's program of education. There are eight States which require a residency before a holder or a Doctor of Podiatric Medicine degree may practice podiatric medicine. Residencies, therefore, would be part of a program of education of a podiatrist who wished to practice in one of those States. Hence, the VA must determine whether these residencies are institutional training instead of on-job training.

Although the APA (American Podiatry Association) does not accredit residencies in podiatric medicine, it does approve them. The approval process is analogous to the accreditation process which is applied to medical residencies. After examining the APA's requirements for approval of residencies in podiatric medicine, the VA has concluded that the training given in podiatric residencies is institutional training for VA purposes. Accordingly, the agency has decided to adopt this suggestion. The final regulation reflects this decision.

The VA has determined that these regulations do not contain a major rule as that term is defined by Executive Order 12291, entitled "Federal Regulation". The annual effect on the economy will be less than \$100 million. The regulations will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs hereby certifies that the regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act

(RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), these regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the changes regarding the Accreditation Council for Graduate Medical Education and the American Dental Association are technical changes only. The VA does not expect substantial changes in recognition of these types of residencies to result from this regulatory change.

The change regarding the American Podiatry Association will result in recognition of some residencies in podiatric medicine as institutional training. However, this will affect a few individual benefit recipients rather than small entities. Consequently, the regulations will have no significant impact on small entities, i.e., small businesses, small private and nonprofit organizations, and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance number for the program affected by these regulations is 64.111.

#### List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: September 19, 1984.

By direction of the Administrator.  
Everett Alvarez, Jr.,  
Deputy Administrator.

### PART 21—VOCATIONAL REHABILITATION AND EDUCATION

The Veterans Administration is amending 38 CFR Part 21 as set forth below:

1. In § 21.4265, paragraph (a) is revised as follows:

§ 21.4265 Practical training approved as institutional training or on-job training.

(a) *Medical-dental internships and residencies.* (1) Medical residencies (other than residencies in podiatric medicine), dental residencies, and osteopathic internships and residencies may be approved and recognized as institutional courses only when an appropriate accrediting agency accredits and approves them as leading to certification for a recognized professional objective.

(2) The appropriate accrediting agencies are:

(i) The Accreditation Council for Graduate Medical Education, or where the Accreditation Council for Graduate

Medical Education has delegated accrediting authority, the appropriate Residency Review Committee.

(ii) The American Osteopathic Association, and

(iii) The Commission on Dental Accreditation of the American Dental Association.

(3) These residency programs—

(i) Must lead to certification by an appropriate Specialty or Subspecialty Board, the American Osteopathic Association, or the American Dental Association; and

(ii) Will not be approved to include a period of practice following completion of the education requirements even though the accrediting agency requires the practice.

(4) Except as provided in paragraph (a)(5) of this section, no other medical or dental residency or osteopathic internship or residency will be approved or recognized as institutional training.

(5) A residency in podiatric medicine may be approved and recognized as institutional training only when it has been approved by the Council on Podiatry Education of the American Podiatry Association.

(38 U.S.C. 1788(b))

2. In § 21.4275, paragraph (a) is revised as follows:

§ 21.4275 Practical training courses; measurement.

(a) Medical and dental residencies and osteopathic internships and residencies. The Veterans Administration will measure medical and dental residencies, and osteopathic internships and residencies as provided in § 21.4270(b) if they are accredited and approved in accordance with § 21.4265(a).

(38 U.S.C. 1788(b))

[FR Doc. 84-25534 Filed 10-5-84; 8:45 am]

BILLING CODE 8320-01-M

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[REF: AM602VA; A3-FRL-2687-8]

Approval and Promulgation of Implementation Plan; Approval of Revision of the Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

**SUMMARY:** EPA approves the amendments to Virginia's inspection and maintenance (I/M) program which are intended to correct prior deficiencies in the following areas: recordkeeping and record submittal requirements; quality control, audit and surveillance procedures; a public awareness plan; and revised emission exhaust standards for carbon monoxide (CO) and hydrocarbons (HC). These amendments are approvable as they meet all of the necessary requirements of section 110 and Part D of the Clean Air Act and 40 CFR Part 51.

**EFFECTIVE DATE:** This action will be effective December 10, 1984, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

**ADDRESSES:** Copies of the revision and accompanying support documents are available during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106, ATTN: Harold A. Frankford  
Virginia State Air Pollution Control Board, Room 801, Ninth Street Office Building, Richmond, VA 23219, ATTN: William R. Meyer  
Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460  
The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, DC 20408

**FOR FURTHER INFORMATION CONTACT:** Harold A. Frankford (3AM13) at the EPA, Region III address above or telephone 215/597-1325.

**SUPPLEMENTARY INFORMATION:**

**Background**

On January 25, 1984, 49 FR 3082, EPA approved the 1982 State Implementation Plan (SIP) revision for the Commonwealth of Virginia, except for the inspection and maintenance (I/M) amendments. The State was to analyze the effectiveness of its overall program and implement any necessary adjustments to ensure that the required Volatile Organic Compound (VOC) and Carbon Monoxide (CO) emission reductions were achieved by the December 31, 1987 attainment date in the Northern Virginia area. Once Virginia completed this analysis, EPA was to complete final action on Virginia's total I/M program.

The Commonwealth had previously submitted amendments to the Department of State Police Administrative and Procedural

Regulations for the Motor Vehicle Inspection and Maintenance Program. These amendments were submitted on December 29, 1982, and proposed for approval in EPA's notice of proposed rulemaking on February 3, 1983, 48 FR 5124. Virginia was not required to hold public hearings with regard to the I/M amendments submitted by the State Police, as they are administrative in nature.

The elements of the I/M program submitted by Virginia pertain to recordkeeping and record submittal; quality control, audit and surveillance; and a public awareness plan. EPA has reviewed these revised administrative and procedural regulations and has determined that they are acceptable.

On June 5, 1984, Virginia completed its analysis as to the effectiveness of the I/M program, and submitted revised exhaust emissions standards with regard to both CO and hydrocarbons (HC). State Regulation 4.103, which EPA approved on May 6, 1982, FR 14707, allows Virginia to adjust the exhaust standards within  $\pm 2$  percent for CO and within  $\pm 200$  ppm for HC if it finds the motor vehicle failure rate to be too high or too low. As a result of its analysis, Virginia submitted revised exhaust emissions standards for both CO and HC, and within the range allowed by Regulation 4.103. The revised standards are to become effective as of January 1, 1985. A comparison of the current and revised standards is listed below:

TABLE 4.103

Model year	Current	Revised
Carbon Monoxide (percent):		
1975-1979	6.0	4.0
1980	4.0	2.0
1981 and later	3.0	1.2
Hydrocarbons (PPM):		
1975-1979	600	400
1980	400	220
1981 and later	300	220

**EPA Evaluation/Action**

EPA has determined that Virginia's new cutpoints will enable the State to meet the required emissions reductions for CO and HC by 1987. EPA has also determined that the remaining elements of Virginia's I/M program submitted on December 29, 1982 are approvable. Thus, EPA is approving the design of Virginia's program, as it is described in the December 29, 1982 and June 5, 1984 submittals from the State, as a revision to Virginia's Part D SIP.

It should be noted, however, that since Virginia's program started in December, 1981, the State has continuously reported a failure rate which is significantly lower than

expected. EPA feels that this problem is caused partly by factors other than the stringency of the program's cutpoints. A recent EPA audit of the State's I/M program confirmed that Virginia is meeting its SIP commitments in the area of surveillance and data collection, however, there remains some question as to the effectiveness of data reporting procedures at the inspection stations. EPA intends to monitor Virginia's I/M program and work with the State to resolve this issue.

EPA is amending 40 CFR 52.2420 (Identification of Plan) of Subpart VV (Virginia) to incorporate this revision into the Virginia SIP. The public is advised that this action will become effective 60 days from the publication date of this notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and other notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

**General**

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (insert date 60 days from date of publication). This action may not be challenged later in proceedings to enforce its requirements (see Section 307(b)(2)).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), I certify that this SIP approval will not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

**List of Subjects in 40 CFR Part 52**

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

**Note.**—Incorporation by reference of the State Implementation Plan for the Commonwealth of Virginia was approved by the Director of the Federal Register on July 1, 1982.

**Authority:** Sections 110, 129, 171-178 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7429, 7501 to 7508 and 7601(a)).

Dated: October 2, 1984.  
William D. Ruckelshaus,  
Administrator.

## PART 52—[AMENDED]

Part 52 of Title 40, of the Code of Federal Regulations is amended as follows:

### Subpart VV—Virginia

1. Section 52.2420 is amended by adding paragraphs (c)(85) and (c)(86) to read as follows:

#### § 52.2420 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(85) Amendments to the Department of State Police Administrative and Procedural Regulations for the Motor Vehicle Inspection and Maintenance (I/M) Program submitted on December 29, 1982 by the Virginia State Air Pollution Control Board.

(86) Amendments to section 4.103 of the Virginia Regulations for the Control and Abatement of Air Pollution submitted on June 5, 1984 by the Virginia State Air Pollution Control Board.

[FR Doc. 84-26592 Filed 10-5-84; 8:45 am]  
BILLING CODE 6560-50-M

### 40 CFR Part 52

[Docket No. KY-007; A-4-FRL-2688-5]

#### Approval and Promulgation of Implementation Plans; Kentucky: 1982 Ozone and Carbon Monoxide Plans for Jefferson County

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

**SUMMARY:** On February 8, 1984 (49 FR 4792), EPA proposed to approve Kentucky's 1982 State Implementation Plan (SIP) revisions for the Jefferson County carbon monoxide (CO) and ozone nonattainment area. In that notice, EPA found that corrections had been made to various deficiencies in the plan, which were noted in EPA's original proposal (February 3, 1983 [48 FR 5040]) to disapprove the revisions. Because they now meet all requirements of the Clean Air Act and EPA policy, EPA is today approving the 1982 revisions to the Jefferson County CO and ozone plans.

**DATE:** This action is effective November 8, 1984.

**ADDRESSES:** Copies of this revision are available for inspection at:

The Office of the Federal Register, 1100 L Street NW., Room 84, Washington, D.C. 20408

Public Information Reference Unit,  
Environmental Protection Agency, 401  
M Street, SW., Washington, D.C.

Copies of the SIP revision and other materials relating to this rulemaking are available for inspection at:

EPA, Region IV, Air Management  
Branch, 345 Courtland Street, NE.,  
Atlanta, Georgia 30365

Kentucky Division of Air Pollution  
Control, 18 Reilly Road, Frankfort,  
Kentucky 40601

Kentucky Regional Planning and  
Development Agency, 914 E.

Broadway, Louisville, Kentucky 40204.

#### FOR FURTHER INFORMATION CONTACT:

Tom Lytle, EPA Region IV, Air  
Management Branch, 345 Courtland  
Street, Atlanta, Georgia 30365, 404/881-  
2864 (FTS: 257-2864).

**SUPPLEMENTARY INFORMATION:** The SIP did not contain a demonstration that the I/M program would achieve the required RACT emission reductions. EPA has performed an analysis of the Louisville I/M program using MOBILE2. EPA defines RACT emission reductions using MOBILE2 as a 33% reduction in the carbon monoxide emissions of light duty vehicles in the urban area and a 25% reduction in hydrocarbon emissions. The results of EPA's analysis show that the program will achieve a 40.2% in CO emissions and a 27.4% reduction in HC emissions given the assumptions provided in the SIP. Therefore, the program meets the requirement for achieving RACT emission reductions.

Because the SIP revisions now meet the requirements of the Clean Air Act and EPA policy, EPA proposed on February 8, 1984 (49 FR 4792), to approve the SIP revisions for Jefferson County. A complete discussion of the original deficiencies and the corrections made by Kentucky was contained in the February 3, 1983 and February 8, 1984, notices and will not be repeated in detail here. The I/M program, which was the primary problem in the original submittal from the State, has now been in operation since January 3, 1984. From all indications to date, the program is operating effectively.

During the comment period for the February 8, 1984, proposal to approve the SIP revisions, only one set of comments was received, from the State of New York's Attorney General. These comments, dated March 18, 1983, have been submitted regarding approval of all ozone SIPs in the eastern United States. The comments relate to various aspects of EPA policy with respect to ozone control. EPA has responded in detail to New York's comments, finding that they provided no basis for not approving ozone SIPs. A detailed discussion of the

comments and EPA's responses is contained in the rulemaking docket prepared in conjunction with this action.

#### Action

EPA approves the 1982 Part D SIP revisions for the Jefferson County ozone and CO nonattainment area, because they meet the requirements of the Clean Air Act and EPA policy. The revision includes, for each pollutant, a demonstration of attainment, emission inventories, control strategies (including I/M, stationary source controls, and transportation control measures), a demonstration of reasonable further progress toward meeting the standards, and other required elements.

This action will be effective 30 days from the date of this Federal Register notice.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

Incorporation by reference of the Kentucky State Implementation Plan was approved by the Director of the Federal Register on July 1, 1982.

#### List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Sulfur oxides, Lead, Nitrogen dioxide, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110 and 172 of the Clean Air Act as amended (42 U.S.C. 7410 and 7502))

Dated: September 27, 1984.

William D. Ruckelshaus,  
Administrator.

## PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

### Subpart S—Kentucky

Section 52.920 is amended by adding paragraph (c)(43) as follows:

#### § 52.920 Identification of plan.

\* \* \* \* \*

(c) The plan revisions listed below were submitted on the dates specified.

\* \* \* \* \*

(43) 1982 revisions to the Part D plan for the Jefferson County ozone and

carbon monoxide nonattainment area, submitted by the Kentucky Natural Resources and Environmental Protection Cabinet on February 9, June 15, September 12, November 21, and December 9, 1983.

[FR Doc. 84-26582 Filed 10-5-84; 8:45 am]  
BILLING CODE 6560-50-M

## INTERSTATE COMMERCE COMMISSION

### 49 CFR Part 1002,

[Ex Parte No. 246 (Sub-2)]

### Regulations Governing Fees for Services Performed in Connection With Licensing and Related Services

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Final rules.

**SUMMARY:** By decision served and published in the Federal Register on May 1, 1984 (49 FR 18490), we adopted new fees for this agency's services. In a subsequent decision, served June 29, 1984 and published in the Federal Register on July 2, 1984 (49 FR 21154), we considered various petitions for reconsideration and stay of the new fee schedule. We denied those petitions except insofar as they addressed item 60—complaints (49 CFR 1002.2(f)(60)). We stayed the collection of fee item 60 and reopened this proceeding for reconsideration of that item. We continue to believe that a fee is properly chargeable for complaints, for the reasons set forth in our earlier decisions. However, we have decided to reduce the previously announced fee for complaints to allay the potential chilling effect that the fee could have.

**DATES:** These rules will be effective on November 8, 1984, except for the suspension of the filing fee for item (62)(i) which is effective on October 5, 1984.

#### FOR FURTHER INFORMATION CONTACT:

Cost Study Information: Paul Meder (202) 275-7457, Susan Maslar (202) 275-6778

Other Information: James H. Bayne (202) 275-7428, Kathleen King (202) 275-7429.

#### SUPPLEMENTARY INFORMATION:

Additional information is contained in the full Commission decision which may be obtained from the Office of the Secretary, Room 2215, 12th Street and Constitution Avenue, NW., Washington, DC 20423; or call (202) 275-7428.

*It is ordered:*

The final rules set forth in the appendix are adopted.

**Authority:** 5 U.S.C. 553, 31 U.S.C. 9701, and 49 U.S.C. 10321 and 10322.

**Decided:** September 28, 1984.

### List of Subjects in 49 CFR Part 1002

Administrative practice and procedure.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio. Commissioner Simmons concurred with a separate expression. Commissioners Lamboley and Strenio did not participate.

James H. Bayne

Secretary.

### Appendix

### PART 1002—FEES

49 CFR Part 1002 is amended as follows:

(1) Section 1002.1 is amended by revising paragraph (e)(3) to read as follows:

**§ 1002.1 Fees for records search, copying, certification, and related services.**

\* \* \* \* \*

(e) \* \* \*  
(3) Printing shall be charged at the rates of \$.10 per page of computer generated output with a minimum charge of \$.25. A charge of \$30 per reel of magnetic tape will be made if the tape is to be permanently retained by the requestor.

\* \* \* \* \*

(2) Section 1002.2 is amended by revising paragraphs (f)(60) and (f)(62)(i) to read as follows:

**§ 1002.2 Filing fees.**

\* \* \* \* \*

(f) \* \* \*  
(60) A complaint alleging unlawful rates or practices of carriers, \$500.

\* \* \* \* \*

(62)(i) Petition for declaratory order involving dispute over an existing rate or practice which is comparable to a complaint proceeding, \$500.

\* \* \* \* \*

[FR Doc. 84-26571 Filed 10-5-84; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 641

[Docket No. 40800-4100]

### Reef Fish Fishery of the Gulf of Mexico

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Final rule.

**SUMMARY:** NOAA issues this final rule to implement the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The rule: (1) Establishes limitations on the use of certain gear in specified areas; (2) establishes construction requirements, and maximum size and numerical limits for fish traps; (3) requires those using fish traps to obtain permits and mark their vessels and gear for identification; (4) establishes a minimum size limit for red snapper; and (5) prohibits the taking of reef fish with poisons or explosives. The regulations are designed to rebuild declining reef fish stocks.

**EFFECTIVE DATE:** This rule is effective November 8, 1984, except for §§ 641.4 and 641.6 which are effective November 23, 1984.

**ADDRESS:** A copy of the combined final regulatory flexibility analysis/regulatory impact review may be obtained from Donald W. Geagan, Southeast Region, National Marine Fisheries Service (NMFS), 9450 Koger Boulevard, St. Petersburg, Florida 33702.

#### FOR FURTHER INFORMATION CONTACT:

Bill Jackson, (202) 634-9568.

**SUPPLEMENTARY INFORMATION:** The FMP was prepared by the Gulf of Mexico Fishery Management Council (Gulf Council). The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), initially approved the FMP on June 3, 1983, under the authority of the Magnuson Fishery Conservation and Management Act, as amended (Magnuson Act), and proposed rules to implement the FMP were published on August 24, 1983 (48 FR 38511). Comments on the FMP and the proposed rules were invited through October 11, 1983.

Because of the great amount of public interest in the proposed rulemaking, the comment period was reopened for an additional 30 days (48 FR 49527 and 48 FR 52616), through November 25, 1983, to allow reviewers to evaluate more thoroughly the proposed regulations. This final rule implements the FMP.

The preamble to the proposed rulemaking contained background information on the reef fish fishery, its economic value, condition of the stocks, and fishing practices within the commercial and recreational sectors. Also discussed in detail were major problems in the fishery (i.e., harvesting of certain species of snapper and grouper at less than optimal sizes from nearshore waters, general overharvesting of red snapper resources throughout the management area, user-group conflicts in nearshore areas where fishing effort is highly concentrated, and



limited fishery data) and the management measures to resolve them. These discussions are not repeated here.

In the proposed rulemaking, § 641.5—Recordkeeping and reporting requirements—was reserved. This section is also reserved in this final rule, pending development of the appropriate reporting system.

#### Comments and Responses

Fifty-five written responses containing approximately 120 comments were received on the proposed rulemaking. The sources of these comments were U.S. Senators and Representatives, State representatives and governors, the Gulf States Marine Fisheries Commission (Commission), the Gulf Council, State marine resource agencies, commercial and sportsfishing organizations, commercial dealers and fishermen, recreational fishermen, charter and headboat owners and operators, and members of the scientific community. In addition to the written comments, approximately 500 questionnaires were received from an element of the headboat industry that conducted a survey of its clients for the purpose of assessing potential effects of the proposed regulations on that sector of the fishery. For convenience of discussion, the issues raised by commenters are summarized under 10 separate categories.

##### 1. State/Federal Jurisdiction

Natural resource agencies of four Gulf States, a governor, a shrimp association, the Commission, the Gulf Council, a sport fishing organization, and several individuals strenuously objected to the application of the red snapper minimum size limit to State waters (proposed § 641.23(a)) and the requirement that red snapper harvested in State waters be landed with head and fins intact (proposed § 641.23(c)). In addition, most of the States also echoed the Gulf Council's concern that these measures as drafted in the proposed rulemaking did not conform with the intent of the Gulf Council, and were not in agreement with the Gulf Council's public statements to fishermen and State officials. Florida also objected that the stressed area (as defined in proposed § 641.22) had been extended into State waters.

The language objected to in the proposed §§ 641.23 (a) and (c) had been drafted for purposes of enhancing the enforceability of the minimum size limit and the landing requirements. Since the scope of that language, however, is contrary to the Gulf Council's intent and public proclamations on the subject, the final rule has been drafted to limit

application of these measures to fish harvested in the fishery conservation zone (FCZ). State agencies responsible for the management of marine fisheries will be requested to adopt compatible measures for the waters under their respective jurisdictions.

Florida's concern regarding the shoreward extent of the stressed areas as defined in proposed § 641.22 was based on a misunderstanding of that section, since the stressed area was defined as a portion of the "management area"—which term was defined in § 641.2 as part of the FCZ. Nonetheless, the final rule has clarified the definition of "stressed area" at § 641.22 to eliminate such misunderstandings in the future.

##### 2. Size Limit and Incidental Catch Allowance

A wide variety of reviewers, including a U.S. Senator, a U.S. Representative and a State representative, submitted comments opposing the 12-inch minimum size limit and the associated incidental catch allowance of five undersized (less than 12-inches fork length) red snapper per fisherman. The major source of such comments was the headboat sector of the fishing industry and its sportsfishing clientele.

Limited data that have become available since the FMP was initially approved indicate that the headboat industry in the northwestern Gulf catches red snapper almost entirely and the vast majority of these fish are less than the minimum size limit (12-inches fork length) specified in the proposed regulations. Because of this strong reliance on undersized red snapper, the headboat industry challenged the proposed minimum size limit and undersized fish allowance on the basis that it would result in severe economic impacts upon that sector of the fishery. Concern was also expressed regarding the sufficiency of the initial regulatory flexibility analysis as it pertains to this sector of the fishery.

A headboat company conducted an extensive survey of its clientele to assist in determining the extent of economic impacts of the proposed minimum size limit on that sector of the fishery. The survey was designed to indicate the fishermen's reaction and the potential impact on the headboat industry of implementing the proposed minimum size limit and the allowance for an incidental catch of five undersized red snapper per fisherman. Although the survey was not conclusive because of structural bias, the responses revealed that some clients might discontinue utilizing headboat services if they could retain only five undersized red snapper.

Commenters also expressed doubt regarding the survivability of undersized fish that headboat customers would hook and be required to release. While the condition of fishes hooked at the bottom and brought to the surface generally varies with depth of capture, NMFS acknowledges that there is little direct evidence that would indicate a high rate of survival of fish harvested from headboats. Indirect evidence (mainly through mark-recapture efforts) that was available at the time of FMP development however, indicates a substantially high survival rate of red snapper which are hooked and released. Although these data are not definitive, high tag returns do suggest survival rates that would support managing red snapper resources through size restrictions.

In response to these joint concerns over the survivability of fish hooked and released and the potential adverse economic impacts, the Gulf Council submitted a request to the Secretary, after the close of the comment period on the proposed rules, to defer implementation of the minimum size limit for red snapper for one year for all segments of the fishery. NMFS believes that such action would be overly broad in light of the expressed concerns and the available data and would nullify in large measure the benefits expected from the FMP. However, NMFS believes it is appropriate to defer implementation of the 12-inch minimum size limit on red snapper for 18 months only for the headboat sector of the fishery. During that period, the Gulf Council will conduct studies to determine if there is an acceptable rate of survival of red snapper hooked and released at various depths and the extent to which size limits and incidental catch allowances for undersized fish may affect the economic viability of various sectors of the fishery, and to examine data that have become available of various sectors of the fishery, and to examine data that have become available recently which may be used in exploring other management alternatives to achieve the objectives of the FMP.

A number of recreational fishermen suggested increasing the catch allowance of undersized red snapper per fisherman to 10, 15, 20, or even more. One commercial fisherman recommended a percentage tolerance by weight. The Gulf Council in its deliberations originally did not consider any retention of undersized fish to be appropriate. The incidental catch allowance of five undersized red snapper was instituted solely as a convenience to fishermen while they are

searching for areas to catch legal-sized fish. As such, the incidental catch allowance of five undersized red snapper should be viewed as a disincentive to fish areas heavily populated by small fish rather than as a limit to be achieved in a directed effort for red snapper. In other words, the measure is an incidental catch allowance rather than a bag limit.

Preliminary data on the headboat fishery off Texas indicate that the average fisherman catches nine red snapper per trip and nearly all of these are undersized fish. Similar data are not available for other sectors of the fishery or other areas of the Gulf; however, comments received from some commercial fish dealers would also indicate that an increasingly high percentage of the commercial landings are made up of undersized red snapper—upwards of 40 percent in some areas. Increasing incidental catch allowances to a level that exceeds the average number harvested would render the measure ineffective. Also, using a system based upon a percentage of total weight landed could result in an increase in the total number of undersized red snapper being landed. Implementation of either of these suggested procedures would not attain the objective of rebuilding declining red snapper resources. Thus, the measure is implemented as proposed. The headboat fishery, however, will not be subject to this measure for the 18-month period of deferred implementation of the minimum size limit.

### 3. Exemption for Trawlers.

Some commenters indicated that exempting trawl vessels from the minimum size limit for red snapper would have a much greater adverse impact on the resource than allowing retention of undersized fish taken by hook and line. The Gulf Council recognizes that incidental catch of snappers by trawls is a significant problem and encourages the development and deployment of gear that will reduce the incidental catch of finfish. The vast majority of red snapper taken in directed trawling operations for shrimp and groundfish, however, are very small in size—many less than two inches in length. Since fish of that size have an extremely high rate of natural mortality, very few would ever be recruited into the adult population. Conversely, the greatest recruitment to the adult population can be achieved by affording protection to sub-adults, i.e., fishes that are 10–12 inches total length. Accordingly, a minimum size limit on the directed hook-and-line fishery, both recreational and commercial, would

produce substantially greater benefits to the stock than would restrictions against trawlers, especially since nearly all fish taken by trawl are dead when brought abroad. Therefore, this measure is implemented as originally proposed.

### 4. Enforcement and liability

Comments were received from one U.S. Senator, one U.S. representative, one State representative, several charter boat and headboat owners, and a number of fishermen questioning whether the regulations for the red snapper minimum size limit and allowance for undersized fish would be enforced equitably among various user groups. Commenters were apprehensive that major enforcement efforts would be directed towards headboat and charter boat operations, and that it was unjust to hold the owners or captains of these boats liable for violations by customers possessing undersized red snapper in excess of catch allowances.

NMFS assures fishermen that enforcement efforts will be directed towards all users of the resource. There will definitely be no concerted effort to police the activities of a particular user group unless there is just cause. The majority of fishermen are concerned with the need for managing reef fish resources and are expected to comply with the regulations. NMFS disagrees, however, that it would be unjust (as suggested by the commenters) to hold owners or captains of headboats or charter boats liable for violations by customers on board their vessels. The issue in part relates to the degree of control of the master or owner over the paying passengers. Although that control may be affected by the number of passengers on board a vessel, such control is clearly established by virtue of the contractual arrangement and by customary maritime law. NMFS is willing to consider, however, particular instances regarding the exercise of that control on a case-by-case basis. In addition, NMFS may consider a variety of factors in mitigation of liability in particular cases, including: whether the owner or master posts notices on the vessel regarding the minimum size limit and incidental catch allowance,<sup>1</sup> whether the owner or master apprises passengers of those notices; whether the owner or master provides means of identifying and measuring fish subject to the minimum size limit; and whether the owner or master provides some means (such as a numbered stringer) for

identifying the person or persons who caught particular fish.

### 5. Fish Hatcheries

One commenter suggested the introduction of hatchery-raised fish to increase red snapper abundance. Because of the high fecundity of red snapper, natural reproduction is capable of sustaining the population; female red snapper 15 to 30 inches in length reportedly produce an estimated 191,000 to 9,320,000 eggs per spawn, respectively. Implementation of the minimum size limit will ensure that a sufficient number of juveniles are recruited into the red snapper spawning population. In addition, the construction and operation of hatcheries for producing and raising red snappers would require extensive expenditures for a program of questionable value. Furthermore, this proposal is not the type of conservation and management measure contemplated by the Magnuson Act.

### 6. Commercial Fishing

Several commenters took issue with the longline sector of the fishery and their recommendations ranged from prohibiting the take of red snapper by longline during the spawning season to an immediate moratorium or total prohibition on longlines in the northwestern Gulf. No restrictions are placed on longlining activities at this time because this sector of the fishery was not addressed in the FMP. The longline fishery was in the early stage of development when the FMP was submitted for Secretarial approval and consequently little information was available on this sector of the fishery at that time. When the FMP was initially approved, one of the conditions was that the longline fishery be addressed at the earliest opportunity for plan amendment.

Two commenters, both recreational fishermen, recommended that all commercial fishing activities be prohibited. No data are available that would support such drastic action.

### 7. Seasonal and Area Closures

Several commenters recommended various area closures on an annual or seasonal basis. Recommended strategies ranged from a total ban on red snapper fishing during the spawning season to closure of the red snapper fishery every third year. One commenter suggested permanent closure of certain offshore banks to all types of fishing so that these areas would serve as refuges for sustaining reef-associated stocks, and closing selected mid-shelf and nearshore

<sup>1</sup> NMFS will make available posters describing regulated species and the appropriate methods for determining measurements.



habitats to all fishing on a seasonal or annual basis. These latter suggestions, although perhaps rational from the standpoint of stock conservation, are overly broad since they would preclude fishing for many species in addition to red snapper. Other alternatives and their associated impacts will be examined by the Gulf Council and will be addressed when the FMP is first amended.

#### 8. Coastal Zone Consistency

The Florida Department of Natural Resources (FDNR) questioned the consistency of the regulations with Florida's Coastal Management Program (CMP) to the extent that the use of fish traps is allowed and size limits are not imposed on any of the groupers. State law, incorporated into Florida's CMP, prohibits the use and possession of fish traps (with certain exceptions) (Florida Statutes section 370.1105), and establishes size limits on certain species of grouper (Florida Statutes section 370.11(2)(a)(8)).

The claim of inconsistency is without legal foundation. Though Federal and State regulations are not identical, identity is not required by the Coastal Zone Management Act (CZMA). In this instance, the Magnuson Act would prohibit such identity. The coastal zone consistency determination for this FMP, which was submitted to Florida's Office of Coastal Zone Management on March 18, 1983, clearly indicated that the prohibition of fish traps and the implementation of minimum size limits on certain species of groupers would violate several of the national standards of the Magnuson Act. (It should be noted that the FMP contains provisions for instituting minimum size limits on groupers and other reef fishes when sufficient evidence becomes available that would indicate those species warrant regulation.) Therefore, to the maximum extent practicable, the FMP is consistent with Florida's CMP.

#### 9. Specific State Concerns

The FDNR commented that these rules would authorize the use and possession of fish traps, without limitation on the number of vessels deploying traps, and that NOAA apparently perceived that the rules would nullify Florida's ban on the possession of traps within Florida's boundaries. This is incorrect. It is NOAA's position that Florida's ban on possession of fish traps in State waters is nullified only to the extent that it would interfere with the exercise of a fisherman's right to utilize those traps in the FCZ (i.e., Florida's ban may not be used to prohibit the transport of fish

traps through State waters to and from the FCZ).

FDNR further contends that allowing fish traps in the FCZ will create an enforcement impossibility within State boundaries and will decimate Florida's prohibition on the possession of fish traps. NOAA agrees that authorizing the use of fish traps in the FCZ may affect to some degree the ability of Florida to enforce its trap prohibition within State waters. NOAA disagrees, however, that Florida's trap law will be "decimated." Certainly, fishing with fish traps within State waters will still be prohibited. Furthermore, unless the fish trap fishermen have Federal permits and Federal markings on their traps, possession of those traps within State waters clearly would be subject to Florida's prohibition. NOAA will work with Florida to minimize whatever problems develop.

FDNR asserts that conflicts from disparate fish trap regulation between State and Federal law require resolution under section 306 of the Magnuson Act. However, section 306 of the Magnuson Act was not formulated for resolving regulatory conflicts created by Federal supersession. Rather, section 306 addresses the situation where the Federal government concludes that the regulation of fisheries within State waters is accomplished in such a fashion as to affect substantially and adversely the implementation of Federal regulations within the FCZ. In this instance, NOAA does not take issue with the manner in which Florida is regulating its fisheries within State waters. As a result, the preemption provisions of section 306 are not applicable.

The FDNR also took issue with the sufficiency of the data base and noted that stock/recruitment relationships, populations, size and mortality rates are totally unknown or inadequate for managing the resource. The FMP concedes that the current state of knowledge is insufficient for addressing total management needs for reef fish resources, and this is precisely why minimum size limits were not established at this time for a number of species, including several important species of groupers. Lack of sound data also explains, in part, why certain gear restrictions were not instituted and why the Federal regulations do not mirror certain aspects of Florida's laws. The regulatory regime developed provides for management of the reef fish resources within the constraints of the available data base, as required by the Magnuson Act. To obtain the information necessary for analyzing the

appropriate mix of measures required for comprehensive management of the reef fish unit, a data gathering program will be implemented as soon as the proper data collection elements can be determined. The recordkeeping and reporting requirements section of the regulations are merely reserved until such time, and have not been withdrawn as FDNR comments indicated. There is no violation of the Magnuson Act by reserving such regulation pending development of the data gathering system.

FDNR also indicated that disparate management measures between the reef fish FMP in the Gulf of Mexico and the snapper/grouper plan in the south Atlantic area would complicate enforcement of either plan in the Florida Keys. The chief differences pertain to minimum size limits on certain species, specification of optimum yield (OY), and fish trap size, number and permitting requirements. NOAA acknowledges that these disparities may create some problems for fishermen who fish on both sides of the Florida Keys, as well as for those who enforce the two sets of regulations. NOAA observes parenthetically that this problem was occasioned by a change in the boundary between the Gulf and South Atlantic Councils (in response to an opinion from the Office of Legal Counsel, Department of Justice) after both Councils had initiated development of the respective FMPs. To partially reconcile the problems associated with these divergent management measures, the Gulf Council has been urged to modify the reef fish FMP at the earliest opportunity by amendment to convert to a non-numeric OY similar to that adopted in the south Atlantic. This approach would allow for instituting minimum size limits on other important species in the reef fish complex on a more timely basis than would be possible under the presently specified approach. Potential problems which may arise due to differences in measures such as those relating to fish traps will require close surveillance; appropriate action will be taken if those problems become significant.

FDNR urges that the proposed rules be rejected as inimical to the resources that they were designed to protect. NOAA disagrees. The matters set forth in opposition to implementation of the FMP by FDNR are not persuasive. NOAA has concluded that the approach proposed in the FMP is the proper approach to management of the subject fishery.

FDNR also objects to the proposed rule on the grounds that development of

certain aspects of the FMP violated the Magnuson Act. Specifically, FDNR alleges that the Gulf Council modified an FMP measure by telephone vote. NOAA observes that the measure referred to initially provided for adjustment to the regulatory regime through rule-related notice if OY were exceeded in any year; the Gulf Council modified this provision to make such changes through the regulatory amendment process. Hence, FDNR's comment technically is a comment on the FMP since there is no rule which implements the regime adjustment provision, as modified. NOAA responds to the substance of FDNR's objection by noting that the effect of the revision was to provide a greater degree of public participation in the adjustment procedure. Such revision hardly "jeopardize(s) a cooperative effort to manage diminishing marine resources." The Gulf Council modified the measure to avoid a possible disapproval of that measure; the fact that the Council took action by telephone poll entails no precedential irregularity.

Finally, FDNR requested that an administrative hearing, in accordance with Title 5, U.S.C. 553 be held and that the proposed rules be stayed pending the resolution of the issues raised by FDNR. NOAA declines either to grant such a hearing or to delay the effective date of the final rule. To grant an administrative hearing on these rules would serve no useful purpose and would delay their implementation. Furthermore, the matters raised by FDNR are more properly resolved in the context of Council deliberations on future modification of the FMP.

#### 10. General Comments

The Gulf Council and a State marine resource agency suggested that the red snapper minimum size limitation be expressed in terms of total length since four of the five Gulf States use this terminology which is less scientific but more understandable to the fishermen. The final rule is modified to reflect the use of either fork length or total length.

The Gulf Council also suggested several additional language changes to clarify the regulations as follows:

(1) That the definition of authorized officer be modified to identify the Departmental authority under which the Coast Guard operates;

(2) That vessel number be included in the identification requirements for fish traps to aid in enforcement;

(3) That official sunrise and sunset be specified in terms of civil rather than military time; and

(4) That the line demarcating fish trap size restrictions conform with

terminology described on nautical charts used by fishermen.

The language in the final rule is modified to reflect these suggestions, except that the permit number is substituted for vessel number in marking buoys for identifying fish traps since vessel numbers are too lengthy. The purpose is served equally well.

The Gulf Council additionally suggested that the term "bill of lading" in proposed § 641.23(b)(3) be more explicitly defined. This provision has been deleted from the final rule, since it pertained to an exception from the proposed prohibition against possession of undersized red snapper, which has been revised on the basis of comments submitted.

#### Changes From the Proposed Rule

The final rule differs from the proposed rule in the following respects, for the reasons discussed above, and to clarify other minor aspects of the regulations:

##### Section 641.1

Paragraph (b) of this section, pertaining to the scope of Part 641, was revised to reflect the fact that certain portions of the rules apply to persons fishing from fixed structures.

##### Section 641.2

The definition of authorized officer, paragraph (c) is revised to identify the Departmental authority under which the Coast Guard operates.

A definition is added for the term "Headboat" which is used in revised § 641.23(b)(2).

A definition of "Total length" is included to describe measurement of fish in popular terminology. Figure 1 is modified to illustrate total measurement.

The definition of "U.S.-harvested fish" is revised to reflect that fish harvested by U.S. citizens on fixed structures are considered to be U.S.-harvested fish.

##### Section 641.4

Portions of paragraphs(c), (e) and (h) of this section were revised to conform to NOAA's rules on Permit Sanctions and Denials, 15 CFR Part 904, Subpart D (49 FR 1037, January 6, 1984).

##### Section 641.6

Paragraph (a) is revised to require the display of the permit number instead of vessel number on vessels or structures, fish traps and buoys, to facilitate identification.

##### Section 641.7

Paragraph (g) is modified to restrict application of the regulation to the FCZ.

Paragraphs (d) and (i) are revised slightly for purposes of clarity.

##### Section 641.8

This section has been revised to reflect the most recent signaling and boarding procedures recommended by the U.S. Coast Guard (49 FR 9736, March 15, 1984).

##### Section 641.9

The reference to 50 CFR Part 620 is deleted, since the substance of that part was removed and the procedures governing citations were set forth in 15 CFR Part 904, Subpart E on January 6, 1984 (49 FR 1036).

##### Section 641.21

Paragraph (a) is modified to designate official sunrise and sunset.

##### Section 641.22

The introductory paragraph is revised to clarify the definition of the stressed area.

##### Section 641.23

Paragraphs (a) and (b) are revised to include total length requirements for red snapper minimum size restrictions.

Paragraph (a) is revised to limit regulatory authority under the FMP to the FCZ.

A new paragraph (b)(2) exempts headboats from the red snapper minimum size limit and incidental catch limit for a period of 18 months. Previously designated paragraph (b)(2) is redesignated as (b)(3); previously designated paragraph (b)(3) is removed as unnecessary due to revision of paragraph (a).

Paragraph (c) is modified to limit regulatory authority under the FMP to the FCZ.

##### Section 621.24

Paragraph (b)(1)(iii) is corrected to designate the proper size wire that may be used for fish trap panels or hinging devices.

Paragraph (b)(5) is revised to conform with terms depicted on nautical charts, and to clarify the geographical scope of the regulation.

#### Classification

The Assistant Administrator, after considering all comments received on the FMP and the proposed regulations, has determined that the FMP and this rule are necessary and appropriate for conservation and management of the fishery and are consistent with the national standards and other provisions of the Magnuson Act, and other applicable law. A final environmental

impact statement was filed with the Environmental Protection Agency, and a notice of its availability was published on September 9, 1983 (48 FR 40780).

The Administrator, NOAA, has determined that these regulations are not major under Executive Order 12291. However, these regulations will have significant economic impact on a substantial number of small entities. A regulatory impact review (RIR), which includes a regulatory flexibility analysis (RFA) as provided under section 605(a) of the Regulatory Flexibility Act, was initially prepared. On the basis of comments submitted on the initial RFA, a final RFA has been prepared pursuant to section 604(a) of the Regulatory Flexibility Act. Copies of the final RIR/RFA are available (see ADDRESSES). That document analyzes the expected benefits and costs of the regulatory action, and includes data that were not available at the time the FMP was submitted for approval. The document also includes an analysis of data obtained from a survey conducted by the headboat industry during the comment period on the proposed rule. These new data raised the issues of (1) the potential economic impacts on the headboat sector of the fishery as a result of the red snapper minimum size limit, and (2) the need for additional information on the survivability of fish hooked and released. Because of the high degree of dependence of the headboat industry on small red snapper, the minimum size limitation for that sector of the fishery has been deferred for 18 months. The 12-inch minimum size limit initially was expected to result in an increased yield of red snapper averaging 23 percent; deferring application of that measure to headboats for 18 months is expected to result in an increased yield of about 16 percent. Therefore, increases in the yield of red snapper described in the RIR would be somewhat lessened by that deferral of implementation; however, benefits resulting from application of the minimum size limit to the commercial and the other recreational components of the fishery would continue to accrue while alternatives are being explored for regulating the headboat industry in a more efficient manner. Increases accruing to the commercial sector of the fishery alone are expected to amount to an estimated \$4.1 to \$13.8 million, while a significant, but undetermined, amount of increase in the recreational sector is expected to result over the next four years. Potential benefits are significantly greater than expected costs. Benefits are expected from increases in reef fish landings. Benefits

expected to accrue from the FMP include the prevention of overfishing and the conservation of reef fish stocks in general and the red snapper stocks in particular. The measures relating to the stressed area will prevent further overfishing and decline of stocks in these nearshore waters, and will reduce the potential for user group conflicts. The major portion of expected costs is that incurred by the Federal government in managing the fishery (including enforcement).

This rule contains a collection of information requirement for purposes of the Paperwork Reduction Act; this collection relates to the permit requirement for trap fishermen. OMB has approved this data collection package.

The coastal zone management offices for each State adjoining the Gulf of Mexico (except Texas, which does not have an approved program under the Coastal Zone Management Act), were provided copies of a consistency determination on March 18, 1983, pursuant to 15 CFR 930.39. That determination concluded that, to the maximum extent practicable, the FMP is consistent with the applicable provisions of the coastal zone management programs of those States.

No responses were received from Alabama or Louisiana within 45 days; hence it is presumed under 15 CFR 930.41(a) that those States agree with the consistency determination. Mississippi agreed on May 4, 1983 that the FMP was consistent with the State's CZMP. Florida requested additional materials and time to review the consistency determination; those materials were provided and extensions of 15 and 45 days were granted to complete the review. Subsequently, Florida disagreed with the consistency determination. Florida's comments are discussed above. NOAA has concluded that, to the maximum extent practicable, the FMP is consistent with the coastal zone management programs of the affected States.

In accordance with 5 U.S.C. 553(d), these final rules will become effective on November 8, 1984, except for §§ 641.4 and 641.6 which will take effect on November 23, 1984. The effective date of these latter provisions is being delayed to enable trap fishermen to comply with § 641.4(b) which requires fish trappers to submit a permit application 45 days in advance of the desired effective date of the permit.

#### List of Subjects in 50 CFR Part 641

Fish, Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 2, 1984.

Joseph W. Angelovic,  
Deputy Assistant Administrator for Science  
and Technology.

For the reasons set out in the preamble, Chapter VI of 50 CFR is amended by adding a new Part 641, to read as follows:

### PART 641—REEF FISH FISHERY OF THE GULF OF MEXICO

#### Subpart A—General Provisions

- Sec.
- 641.1 Purpose and scope.
- 641.2 Definitions.
- 641.3 Relationship to other laws.
- 641.4 Permits.
- 641.5 Recordkeeping and reporting requirements. [Reserved]
- 641.6 Vessel and gear identification.
- 641.7 Prohibitions.
- 641.8 Facilitation of enforcement.
- 641.9 Penalties.

#### Subpart B—Management Measures

- 641.20 Fishing year.
- 641.21 Harvest limitations.
- 641.22 Area limitations.
- 641.23 Size and incidental catch restrictions.
- 641.24 Gear limitations.
- 641.25 Effort limitations.
- 641.26 Specifically authorized activities.

Authority: 16 U.S.C. 1801 *et seq.*

#### Subpart A—General Provisions

##### § 641.1 Purpose and scope.

(a) The purpose of this part is to implement the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico, prepared by the Gulf of Mexico Fishery Management Council under the Magnuson Act.

(b) This part regulates fishing for reef fish by persons on fixed structures and fishing vessels of the United States within the Gulf of Mexico portion of the FCZ.

##### § 641.2 Definitions.

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this part have the following meanings:

*Authorized officer* means:

- (a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;
- (b) Any special agent of NMFS;
- (c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Secretary of the department under which the U.S. Coast Guard is operating, to enforce the provisions of the Magnuson Act; or
- (d) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

**Fish trap** means any trap and the component parts thereof used for or capable of taking finfish, regardless of the construction material, except those traps historically used in the directed fisheries for crustaceans (blue crab, stone crab, and spiny lobster).

**Fishery conservation zone** means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

**Fishing** means any activity, other than scientific research conducted by a scientific research vessel, which involves:

- (a) The catching, taking, or harvesting of fish;
- (b) The attempted catching, taking, or harvesting of fish;
- (c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; and
- (d) Any operations at sea in support of, or in preparation for, any activity described in paragraph (a), (b), or (c) of this definition.

**Fishing vessel** means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for:

- (a) Fishing; or
- (b) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

**Fork length** means the distance from the tip of the snout to the rear center edge of the tail (caudal fin).

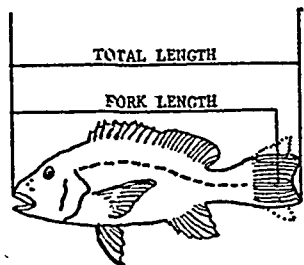


Figure 1. Illustration of fork length and total length measurement

**Headboat** means any fishing vessel operated by a master and crew which carries seven or more persons who fish for a fee.

**Magnuson Act** means the Magnuson Fishery Conservation and Management Act, as amended (16 U.S.C. 1801 *et. seq.*).

**Management area** means that area of the FCZ subject to the authority of the Gulf of Mexico Fishery Management Council.

**NMFS** means the National Marine Fisheries Service.

**Official number** means the documentation number issued by the U.S. Coast Guard or the registration number issued by a State or the U.S. Coast Guard for undocumented vessels.

**Operator**, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

**Owner**, with respect to any fishing vessel, means:

- (a) Any person who owns that vessel in whole or in part;
- (b) Any charterer of the vessel, whether bareboat, time or voyage;
- (c) Any person who acts in the capacity of a charterer, including, but not limited to, parties to a management agreement, operating agreement, or other similar arrangement that bestows control over the destination, function, or operation of the vessel; or
- (d) Any agent designated as such by any person described in paragraphs (a), (b), or (c) of this definition.

**Person** means any individual (whether or not a citizen of the United States), corporate, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

**Powerhead** means any device with an explosive charge, usually attached to a speargun, spear, pole, or stick, which fires a projectile upon contact.

**Reef fish** refers to fish in the following two categories:

- (a) **Management unit**—species in the directed fishery include the following:

**Snappers—Lutjanidae Family**

Queen snapper, *Etelis oculatus*  
Mutton snapper, *Lutjanus analis*  
Schoolmaster, *Lutjanus apodus*  
Blackfin snapper, *Lutjanus buccanella*  
Gulf red snapper, *Lutjanus campechanus*  
Cubera snapper, *Lutjanus cyanopterus*  
Gray (mangrove) snapper, *Lutjanus griseus*  
Dog snapper, *Lutjanus jocu*  
Mahogany snapper, *Lutjanus mahogoni*  
Lane snapper, *Lutjanus synagris*  
Silk snapper, *Lutjanus vivanus*  
Yellowtail snapper, *Ocyurus chrysurus*  
Wenchman, *Pristipomoides aquilonaris*  
Voraz, *Pristipomoides macrophthalmus*

Vermilion snapper, *Rhomboplites aurorubens*

**Groupers—Serranidae Family**

Rock hind, *Epinephelus adscensionis*  
Speckled hind, *Epinephelus drummondhayi*  
Yellowedge grouper, *Epinephelus flavolimbatus*  
Red hind, *Epinephelus guttatus*  
Jewfish, *Epinephelus itajara*  
Red grouper, *Epinephelus morio*  
Misty grouper, *Epinephelus mystacinus*  
Warsaw grouper, *Epinephelus nigritus*  
Snowy grouper, *Epinephelus niveatus*  
Nassua grouper, *Epinephelus striatus*  
Black grouper, *Mycteroperca bonaci*  
Yellowmouth grouper, *Mycteroperca interstitialis*  
Gag, *Mycteroperca microlepis*  
Scamp, *Mycteroperca phenax*  
Yellowfin grouper, *Mycteroperca veneosa*

**Sea Basses—Serranidae Family**

Southern sea bass, *Centropristis melana*  
Bank sea bass, *Centropristis ocyurus*  
Rock sea bass, *Centropristis philadelphica*

- (b) **Fishery**—species in the reef fishery that are taken incidental to the directed fishery for reef fish includes the following:

**Tilefishes—Branchiostegidae Family**

Great northern tilefish, *Lopholatilus chamaeleonticeps*  
Tilefish, *Caulolatilus* spp.

**Jacks—Carangidae Family**

Amerjacks, *Seriola* spp.

**Triggerfishes—Balistidae Family**

Gray triggerfish, *Balistes capriscus*

**Wrasses—Labridae Family**

Hogfish, *Lachnolaimus aximus*

**Grunts—Haemulidae Family**

Tomtate, *Haemulon aurolineatum*  
White grunt, *Haemulon plumieri*  
Pigfish, *Orthopristis chrysoptera*

**Porgies—Sparidae Family**

Grass porgy, *Calamus arctifrons*  
Jolthead porgy, *Calamus bajonado*  
Knobbed porgy, *Calamus nodosus*  
Littlehead porgy, *Calamus proridens*  
Pinfish, *Lagodon rhomboides*  
Red porgy, *Pagrus sedecim*

**Sand Perches—Serranidae Family**

Dwarf sand perch, *Diplectrum bivittatum*  
Sand perch, *Diplectrum formosum*

**Regional Director** means the Regional Director (or a designee), Southeast Region, NMFS, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702; telephone 813-893-3141.

**Roller trawl** means a trawl net equipped with rollers on a separate cable or line with spaces connecting the cable or line to the footrope, which makes it possible to fish the gear over rough bottom, i.e., in areas unsuitable for fishing conventional shrimp trawls. Rigid framed trawls adapted for

shrimping over uneven bottom, and in wide use along the west coast of Florida, are not considered roller trawls.

*Secretary* means the Secretary of Commerce or a designee.

*Total length* means the distance from the tip of the snout to the furthestmost tip of the tail (caudal fin) depressed. (See Figure 1.)

*U.S.-harvested fish* means fish caught, taken or harvested by U.S. citizens on fixed structures and vessels of the United States within any fishery regulated under the Magnuson Act.

*Vessel of the United States* means:

(a) Any vessel documented under the laws of the United States;

(b) Any vessel numbered in accordance with the Federal Boat Safety Act of 1971 and measuring less than 5 net tons; or

(c) Any vessel numbered under the Federal Boat Safety Act of 1971 and used exclusively for pleasure.

#### § 641.3 Relationship to other laws.

(a) Persons affected by these regulations should be aware that other Federal and State statutes and regulations may apply to their activities.

(b) Certain responsibilities relating to data collection or enforcement may be performed by authorized State personnel under cooperative agreements entered into by the State, the U.S. Coast Guard, and the Secretary.

#### § 641.4 Permits.

(a) *Applicability.* Fishing vessels from which fish traps are deployed and individuals fishing with fish traps from fixed structures are required to obtain a permit.

(b) *Application for permit.* An application for a fish trap permit must be submitted and signed by the owner or operator of the vessel or by the person fishing traps from a structure. The application must be submitted to the Regional Director 45 days prior to the date on which the applicant desires to have the permit made effective.

(1) Permit applicants fishing from vessels must provide all the following information:

(i) Name, mailing address including zip code, and telephone number of the owner of the vessel;

(ii) Name of the vessel;

(iii) The vessel's official number;

(iv) Home port or principal port of landing, gross tonnage, radio call sign, and length of the vessel;

(v) Engine horsepower and year the vessel was built;

(vi) Approximate fish hold capacity of the vessel;

(vii) Number, dimensions and estimated cubic volume of the fish traps that will be fished;

(viii) Any other information concerning vessel and gear characteristics requested by the Regional Director; and

(ix) A statement that the applicant will allow authorized officers reasonable access to his property (vessel and dock) to inventory fish traps for compliance with these regulations.

(2) Applicants fishing from fixed structures must provide the following information:

(i) Applicant's name, mailing address, and telephone number;

(ii) Name and number of the oil or gas structure or the most descriptive identification for other types of structures;

(iii) Approximate location of the structure in miles offshore and direction from principal port or latitude and longitude of the structure;

(iv) Number, dimensions, and estimated cubic volume of the fish traps that will be fished; and

(v) A statement that the applicant will allow authorized officers reasonable access to his property (structure) to inventory fish traps for compliance with these regulations.

(3) Any change in the information specified in paragraph (b) of this section must be submitted in writing to the Regional Director by the permit holder within 15 days of any such change. Failure to notify the Regional Director of any change in the required information will result in a rebuttable presumption that the information is still accurate and current.

(c) *Issuance.* Except as provided in Subpart D of 15 CFR Part 904, the Regional Director will issue a permit and numbered tag(s) to the applicant not later than 30 days from the date of receipt of a completed application and will designate a color code to be used for identification of vessels fishing fish traps and buoys used by such vessels.

(d) *Fees.* No fee will be assessed for any permit issued under this section.

(e) *Duration.* Permits will remain valid unless revoked, suspended, or modified pursuant to Subpart D of 15 CFR Part 904.

(f) *Transfer.* A permit issued under this section is not transferable or assignable. A permit is valid only for the fishing vessel and owner, or the person fishing traps from a structure, for which it is issued.

(g) *Display.* A permit issued under this section must be carried on board the fishing vessel or on the fixed structure at all times. The operator of a fishing vessel, or the person fishing fish traps

from a structure, must present the permit for inspection upon request of any authorized officer.

(h) *Sanctions.* Procedures governing permit sanctions and denials are found at Subpart D of 15 CFR Part 904.

(Approved by the Office of Management and Budget under OMB control number 0648-0097)

#### § 641.5 Recordkeeping and reporting requirements. (Reserved)

#### § 641.6 Vessel and gear identification.

(a) Vessels and fixed structures from which fish traps are fished must identify, in conformance with this paragraph, the vessel or structure, fish traps and buoys by the number and/or color code designated by the Regional Director under § 641.4(c) of this part.

(1) *Vessels or structures.* Vessels or structures must permanently and conspicuously display the permit number and the color code designated by the Regional Director under § 641.4(c) of this part in a manner as to be readily identifiable from the air and water; such color representation must be in the form of a circle at least 20 inches in diameter and the permit number must be at least 10 inches high.

(2) *Fish traps.* Each fish trap must have affixed to it permanently a metal or plastic identification tag supplied by the Regional Director, which displays the assigned permit and fish trap number.

(3) *Buoys.* Each fish trap, or the opposite ends of a string of fish traps, must be marked by a floating buoy or by a buoy designed to be submerged and automatically released. All buoys used to mark fish traps must display the designated color code and permit number so as to be easily distinguished, located, and identified.

(b) Fish traps fished in the FCZ will be presumed to be the property of the most recently documented owner. This presumption will not apply with respect to reef fish traps which are lost or sold if the owner of such traps reports the loss or sale within 15 days to the Regional Director.

(c) Unmarked reef fish traps deployed in the FCZ are illegal and may be disposed of in any appropriate manner by the Secretary (including an authorized officer). If owners of the unmarked traps can be ascertained, those owners remain subject to appropriate civil penalties.

#### § 641.7 Prohibitions.

It is unlawful for any person to:

(a) Fish for reef fish with fish traps without a valid permit, as required by § 641.4;

(b) Fish for reef fish with fish traps without a valid permit number, or possess on board a fishing vessel (or structure) unmarked fish traps or buoys, or falsify, or fail to affix and maintain vessel (or structure) or gear markings as required by § 641.6;

(c) Pull or tend fish traps except during the hours specified in § 641.21(a);

(d) Tend, open, pull, or otherwise molest or have in one's possession aboard a fishing vessel another person's fish traps except as provided in § 641.21(b);

(e) Use powerheads to fish for reef fish or use fish traps or roller trawls in the stressed area, as specified in § 641.22;

(f) Possess red snapper under the minimum size limit specified in § 641.23(a), except as specified in § 641.23(b);

(g) Possess red snapper in the FCZ, or land red snapper taken from the FCZ, without the head and fins intact as specified in § 641.23(c);

(h) Fish for reef fish with poisons or explosives, as specified in § 641.24(a);

(i) Fish with fish traps in the FCZ in areas other than the stressed area unless such traps are constructed as specified in § 641.24(b);

(j) Fish in the FCZ with more than 200 fish traps per vessel, as specified in § 641.25;

(k) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, land, or export any fish taken or retained in violation of the Magnuson Act, this part, or any other regulation under the Magnuson Act;

(l) Fail to comply immediately with enforcement and boarding procedures specified in § 641.8;

(m) Refuse to permit an authorized officer to board a fishing vessel subject to such person's control or to come onto a structure for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this part, or any other regulation or permit issued under the Magnuson Act;

(n) Forcibly assault, resist, oppose, impede, intimidate, threaten, or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (m) of this section;

(o) Resist a lawful arrest for any act prohibited by this part;

(p) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this part;

(q) Transfer directly or indirectly, or attempt to so transfer, any U.S.-harvested reef fish to any foreign fishing vessel, while such vessel is in the FCZ,

unless the foreign fishing vessel has been issued a permit under Section 204 of the Magnuson Act which authorizes the receipt by such vessel of U.S.-harvested reef fish; or

(r) Violate any other provision of this part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

#### § 641.8 Facilitation of enforcement.

(a) *General.* The operator of, or any other person aboard, any fishing vessel subject to this part must immediately comply with instructions and signals issued by an authorized officer to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record (where applicable), and catch for purposes of enforcing the Magnuson Act and this part.

(b) *Communications.* (1) Upon being approached by a U.S. Coast Guard vessel or aircraft, or other vessel or aircraft with an authorized officer aboard, the operator of a fishing vessel must be alert for communications conveying enforcement instructions.

(2) If the size of the vessel and the wind, sea, and visibility conditions allow, loudhailer is the preferred method for communicating between vessels. If use of a loudhailer is not practicable, and for communications with an aircraft, VHF-FM or high frequency radiotelephone will be employed. Hand signals, placards, or voice may be employed by an authorized officer and message blocks may be dropped from an aircraft.

(3) If other communications are not practicable, visual signals may be transmitted by flashing light directed at the vessel signaled. Coast Guard units will normally use the flashing light signal "L" as the signal to stop.

(4) Failure of a vessel's operator to stop his vessel when directed to do so by an authorized officer using loudhailer, radiotelephone, flashing light signal, or other means constitutes *prima facie* evidence of the offense of refusal to permit an authorized officer to board.

(5) The operator of a vessel who does not understand a signal from an enforcement unit and who is unable to obtain clarification by loudhailer or radiotelephone must consider the signal to be a command to stop the vessel instantly.

(c) *Boarding.* The operator of a vessel directed to stop must:

(1) Guard Channel 16, VHF-FM if so equipped;

(2) Stop immediately and lay to or maneuver in such a way as to allow the authorized officer and his party to come aboard;

(3) Except for those vessels with a freeboard of four feet or less, provide a safe ladder, if needed, for the authorized officer and his party to come aboard;

(4) When necessary to facilitate the boarding or when requested by an authorized officer, provide a man rope or safety line, and illumination for the ladder; and

(5) Take such other actions as necessary to facilitate boarding and to ensure the safety of the authorized officer and the boarding party.

(d) *Signals.* The following signals, extracted from the International Code of Signals, may be sent by flashing light by an enforcement unit when conditions do not allow communications by loudhailer or radiotelephone. Knowledge of these signals by vessel operators is not required. However, knowledge of these signals and appropriate action by a vessel operator may preclude the necessity of sending the signal "L" and necessity for the vessel to stop instantly.

(1) "AA repeated." (-.-.-) <sup>1</sup> is the call to an unknown station. The operator of the signaled vessel should respond by identifying the vessel by radiotelephone or by illuminating the vessel's identification.

(2) "RY-CY" (-.-.-.-.-) means "you should proceed at slow speed, a boat is coming to you." This signal is normally employed when conditions allow an enforcement boarding without the necessity of the vessel being boarded coming to a complete stop, or, in some cases, without retrieval of fishing gear which may be in the water.

(3) "SQ3" (...-.-.-.-) means "you should stop or heave to; I am going to board you."

(4) "L (-.-) means "you should stop your vessel instantly."

#### § 641.9 Penalties.

Any person or fishing vessel found to be in violation of this part will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Magnuson Act, and to 50 CFR Part 621 and 15 CFR Part 904 (Civil Procedures), and other applicable law.

### Subpart B—Management Measures

#### § 641.20 Fishing year.

The fishing year for reef fish begins on January 1 and ends on December 31.

#### § 641.21 Harvest limitations.

(a) Reef fish traps may be pulled or tended only during the period from

<sup>1</sup> (-) means a short flash of light.

<sup>2</sup> (-) means a long flash of light.



official (civil) sunrise to official (civil) sunset.

(b) Reef fish traps may be tended only by persons (other than authorized officers) aboard the fish trap owner's vessel(s), or aboard another vessel if

such vessel has on board written consent of the fish trap owner.

**§ 641.22 Area limitations.**

The stressed area is that portion of

the management area which is enclosed by the inner boundary of the FCZ and the discontinuous line connecting the points of latitude and longitude listed in Table 1 (also see Figure 2).

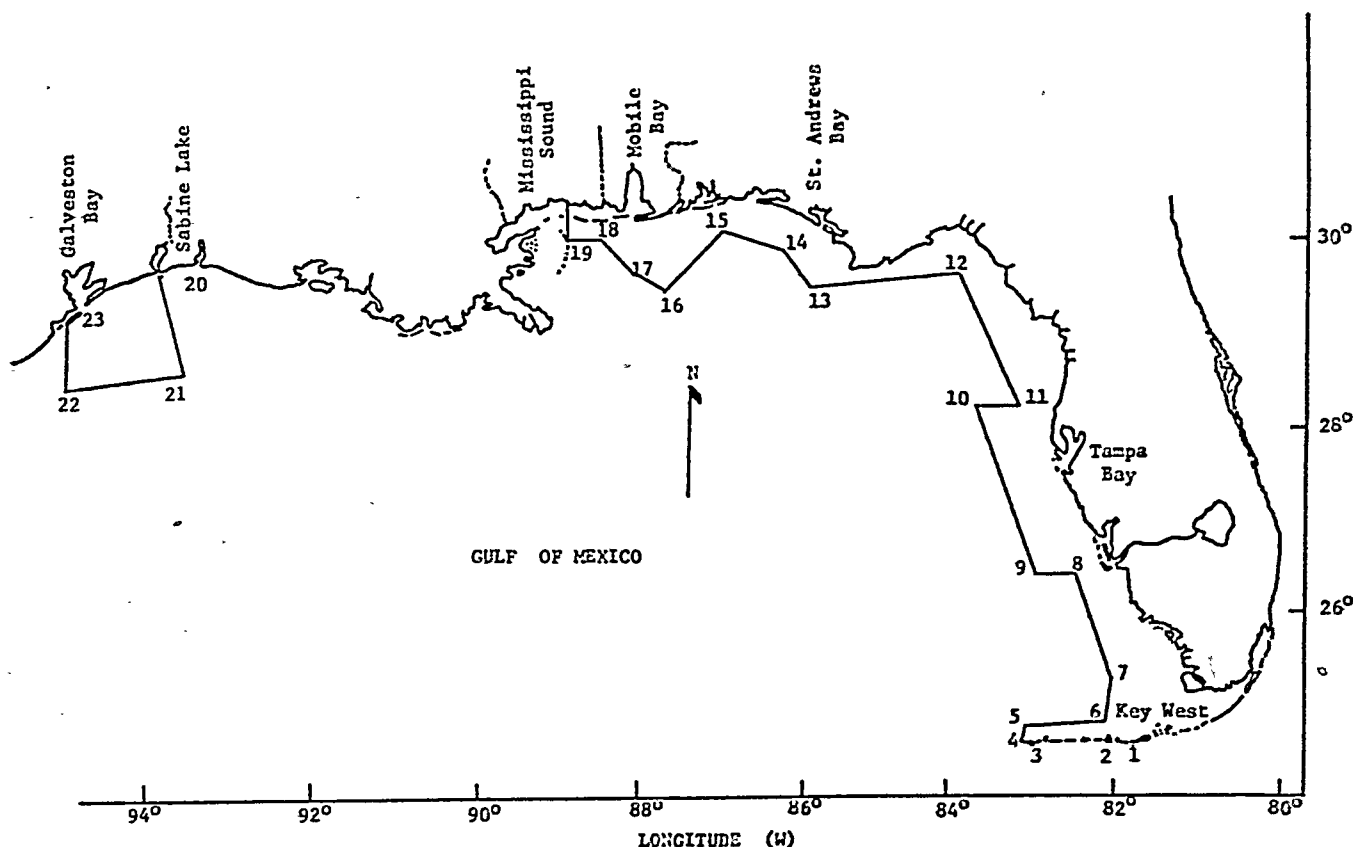


FIGURE 2. MAP OF THE STRESSED AREA

(a) The stressed area is closed to the use of powerheads for the taking of reef fish in the management unit. The possession of a powerhead and mutilated reef fish from the management unit while in the stressed area will constitute *prima facie* evidence that reef fish were taken with a powerhead in the stressed area.

(b) The stressed area is closed to the use of roller trawls and fish traps. Fish traps in the stressed area will be considered unclaimed or abandoned property and may be disposed of according to § 641.6(c).

**§ 641.23 Size and incidental catch restrictions.**

(a) The minimum size limit for the possession of red snapper harvested in the FCZ is 12 inches fork length (13 inches total length), except as specified in paragraph (b) of this section.

(b) *Exceptions.* (1) An incidental catch of five red snappers under 12 inches fork length (13 inches total length) per person per trip is allowed.

(2) Persons fishing from headboats in the FCZ are exempt from the minimum size limit and incidental catch limit for red snapper until May 8, 1986.

(3) Persons lawfully fishing with trawls from domestic vessels in the FCZ

are exempt from the minimum size limit for red snapper.

(c) All red snapper harvested in the FCZ must be landed with the head and fins intact.

**§ 641.24 Gear limitations.**

(a) Poisons or explosives may not be used in the taking of reef fish in the management unit; however, explosives in powerheads may be used outside the stressed area.

(b) Fish traps fished in the FCZ are subject to the following requirements and limitations:

(1) Fish traps are required to have panels or access door-hinging devices and door fasteners which will degrade

or self-destruct and which must be constructed of one of the following degradable materials: (i) Untreated hemp, jute, or cotton string of 1/8-inch diameter or smaller; (ii) magnesium alloy, time float releases (pop-up devices) or similar magnesium alloy fasteners; or (iii) ungalvanized or uncoated iron wire at 0.055-inch diameter or smaller;

(2) The opening covered by the degradable panel or access door must be 144 square inches or larger, with one dimension of the area equal to or larger

than the largest interior axis of the trap's throat (funnel) with no other dimension less than 6 inches;

(3) One degradable panel or access door must be located opposite each of the sides of the trap that has a funnel;

(4) Effective November 8, 1985, the minimum mesh size for all fish traps within the FCZ will be 1x2 inches, and a minimum of two 2x2-inch escape windows will be required on each of two sides of the trap; and

(5) The maximum allowable size for fish traps fished in the FCZ shoreward

of the 50-fathom isobath (300-foot contour) is 33 cubic feet in volume. There is no size limitation for fish traps fished seaward of the 50-fathom isobath.

#### § 641.25 Effort limitations.

The maximum number of fish traps that may be fished by a vessel in the FCZ is 200.

#### § 641.26 Specifically authorized activities.

The Secretary may authorize, for the acquisition of information and data, activities otherwise prohibited by these regulations.

TABLE 1.—POINTS FOR THE DISCONTINUOUS LINE DELINEATING THE STRESSED AREA

Point No.	Reference location <sup>1</sup>	Latitude (North)	Longitude (West)	Loran C coordinates <sup>2</sup>			
				W	X	Y	Z
	Starting at the mainland of Florida at the Dade/Monroe county line and proceeding down the Florida Keys Island chain (as delineated by the highway U.S. Route 1) to the following points:						
1	Key West.....	24°33.0'	81°48.7'	13927.8	30238.2	43654.2	62655.1
2	Marquesas Key.....	24°35.0'	82°06.2'	13694.5	30189.2	43748.0	62720.0
3	Gulf/South Atlantic Boundary.....	24°35.0'	83°00.0'	13768.5	29992.2	44049.2	62041.1
4	Tortugas Bank South.....	24°36.0'	83°06.0'	13753.4		44084.4	62065.5
5	Tortugas Bank North.....	24°44.0'	83°04.0'	13772.3		44087.4	62060.3
6	West of Smith Shoal.....	24°48.0'	82°06.5'	13915.1		43760.2	62727.7
7	Off Cape Sable.....	24°15.0'	82°02.0'	13974.7		43759.0	62704.0
8	Off Sanibel Island (Inshore).....	26°26.0'	82°29.0'	14060.3		43117.4	62024.3
9	Off Sanibel Island (Offshore).....	26°26.0'	82°59.0'	13990.0		43347.0	62970.7
10	Off Anclote Keys (Offshore).....	28°10.0'	83°45.0'	14145.8		45328.0	63266.0
11	Off Anclote Key (Inshore).....	28°10.0'	83°14.0'	14224.3		45092.0	63088.4
12	Off Deadman Bay.....	29°38.0'	84°00.0'	14412.4		45167.7	63442.2
13	SW of Cape San Blas.....	29°30.5'	85°52.0'	13873.2		46702.0	63976.2
14	Off St. Andrews Bay.....	29°53.0'	86°10.0'	13816.5		46922.3	64050.0
15	Desoto Canyon.....	30°08.0'	86°55.0'	13434.6	30600.6	47045.0	
16	Alabama/Florida line.....	29°34.5'	87°38.0'	12971.5	30023.4	46888.0	
17	Off Mobile Bay.....	29°41.0'	88°00.0'	12766.5	29841.2	46930.0	
18	Mississippi/Alabama line.....	30°01.5'	88°23.7'	12537.6	29637.7	47029.3	
19	Chandeleur Islands.....	30°01.5'	88°51.0'	12262.0	29422.2	47028.6	
	Closing at the Mississippi Mainland.....	30°23.4'	88°51.0'	and			
	Starting at the west bank of Sabine Pass, Texas to the following points:						
20	Sabine Pass.....	29°39.0'	93°49.5'	11027.8	26367.1	46966.0	
21	Texas/Louisiana line, south.....	28°38.0'	93°32.0'	11139.4	26220.7	46815.1	
22	Off Galveston Island.....	28°28.0'	95°00.0'	11086.2	25308.9	46817.0	
23	Off Galveston Island.....	29°09.5'	95°00.0'	11036.9	25551.4	46909.0	

<sup>1</sup>Nearest identifiable landfall, boundary, navigation aid or submarine area.

<sup>2</sup>Loran coordinates are provided to aid the fishermen affected by the measures and are subject to local variations due to atmospheric conditions, therefore, are not used as part of the legal description of the stressed area.

[FR Doc. 84-26494 Filed 10-2-84; 8:45 am]

BILLING CODE 3510-22-M

## 50 CFR Part 652

[Docket No. 40790-4090]

### Atlantic Surf Clam and Ocean Quahog Fisheries, Termination of Georges Banks Field Survey Research Program

**AGENCY:** National Marine Fisheries Services (NMFS), NOAA, Commerce.

**ACTION:** Notice of termination of Georges Banks field survey research program.

**SUMMARY:** NOAA issues this notice to terminate the survey established by the emergency interim rule which amended the Fishery Management Plan for Atlantic Surf Clam and Ocean Quahog Fisheries. The appropriate amount of information has been collected to

determine the size of the surf clam beds on Georges Bank. The intended effect is to stop fishing efforts to collect information under the program on the Georges Bank Area, off the coast of New England.

**EFFECTIVE DATE:** This notice is effective at 0001 hours Eastern Daylight Time October 7, 1984.

**FOR FURTHER INFORMATION CONTACT:** Salvatore A. Testaverde (Acting Surf Clam Management Coordinator), 617-281-3600, Extension 273.

**SUPPLEMENTARY INFORMATION:** On August 2, 1984 (49 FR 30946) an emergency interim rule was issued establishing a program whereby the Regional Director, Northeast Region, temporarily could exempt from management measures certain authorized fishing activities for surf clams. The purpose of the research program was to authorize an intensive

and short-term survey of the extent and probable yield of surf clam beds on Georges Bank, off the coast of New England.

The information collected by commercial surf clam vessels participating in the research program, and supplementary information collected by NMFS research vessels, estimated that a total of 400,000 bushels could be taken from the Georges Bank Area during 1984. As of October 6, 1984, Georges Bank Area catch data shows that approximately 400,000 bushels have been taken. No further information from fishing vessel operators is needed to determine the extent and probable yield of the surf clam beds on Georges Bank. Therefore, the research program is terminated and the research area is dissolved.

Any additional harvest of surf clams from the Georges Bank Area will be



counted against the New England Area 1984 quota of 200,000 bushels (49 FR 27156).

**Other Matters**

This action is taken under the authority of 50 CFR Part 652, and is

taken in compliance with Executive Order 12291.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 652

Fisheries, Fishing.

Dated: October 3, 1984.

Joseph W. Angelovic,

*Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.*

[FR Doc. 84-25326 Filed 10-3-84; 3:58 pm]

BILLING CODE 3510-22-M

# Proposed Rules

Federal Register

Vol. 49, No. 196

Tuesday, October 9, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

#### 9 CFR Parts 319 and 327

[Docket No. 83-005P]

#### Control of Added Substances and Labeling Requirements for Imported Cured Pork Products

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This proposal would amend the Federal meat inspection regulations by establishing monitoring and retention procedures for imported cured pork products at the ports of entry and within the United States. These procedures would assure that imported cured pork products adhere to the same standards as do domestic cured pork products as set forth in sections 319.104 and 319.105 of the Federal meat inspection regulations (9 CFR 319.104; and 319.105). Under a regulation published April 13, 1984 (49 FR 14856), the standards for domestic cured pork products are based on a minimum meat protein content determined on a fat free basis (PFF) in the various finished cured pork products. The procedures are proposed to assure that imported cured pork products meet PFF standards at least equal to those for domestic products.

**DATE:** Comments must be received on or before December 10, 1984.

**ADDRESS:** Written comments to: Regulations Office, Attn: Annie Johnson, FSIS Hearing Clerk, Room 2637, South Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. (See also "Comments" under "Supplementary Information.")

**FOR FURTHER INFORMATION CONTACT:** W. J. Havlik, Assistant Director, Foreign Programs Division, International Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6933.

## SUPPLEMENTARY INFORMATION:

### Executive Order 12291

The Administrator, Food Safety and Inspection Service, has made an initial determination that this proposed rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Under the proposal, the domestic meat processing industry would have assurance of protection against unfair competition by noncompliant imported products. Consumers would benefit from assurance that imported cured pork products are accurately labeled and in compliance with the Department's standards for those products, domestic or imported. The proposal would allow the same range of imported products to be marketed as permitted for domestically prepared products.

### Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601). The proposed rule would have an impact on those foreign plants certified as eligible to export cured pork products to the United States. The Department keeps a list of these plants and, at present, there are 81 such foreign companies. Two of them are small businesses (defined as businesses that have less than 3 million pounds of product inspected per year). There is a potential adverse effect on businesses in the United States which are primarily brokers of imported cured pork products if (1) the major portion of the products handled originated from one foreign plant, and (2) such products from that plant were placed in retention as defined by the proposal. This proposal would not, however, have any adverse effect on meat processors in the United States.

## Comments

Interested persons are invited to submit comments concerning this proposal. Written comments must be sent in duplicate to the Regulations Office and comments should reference the docket number located in the heading of this document. All comments submitted pursuant to this proposal will be made available for public inspection in the Regulations Office between 9:00 a.m. and 4:00 p.m., Monday through Friday.

## Background

The Department recently published amendments to its Federal meat inspection regulations which established standards for a minimum meat protein determined on a fat free basis (PFF) in cured pork products such as cured hams, pork shoulder picnics, pork shoulder butts, pork loins, ham patties, and chopped, pressed, and spiced ham; established labeling requirements for such products; permitted a broader range of cured pork products to be marketed; and prescribed procedures for determining compliance with these requirements.<sup>1</sup>

This proposal would prescribe procedures for monitoring at the ports of entry and in the United States the compliance of imported cured pork products with the PFF standards in §§ 319.104 and 319.105 of the Federal meat inspection regulations (9 CFR 319.104 and 319.105) found at 49 FR 14856. Those PFF standards and labeling requirements are as follows:

Type of cured pork product	(Standards) minimum meat PFF percentage	(Labeling requirements) product name and qualifying statements
Cooked ham, loin..	20.5	(Common and usual).
Do .....	18.5	(Common and usual) with natural juices.
Do .....	17.0	(Common and usual) water added.
Do .....	<17.0	(Common and usual) and water product-X percent of weight is added ingredients.
Cooked shoulder, butt, picnic.	20.0	(Common and usual).
Do .....	18.0	(Common and usual) with natural juices.
Do .....	16.5	(Common and usual) water added.

<sup>1</sup>A copy may be obtained from Mr. Bill F. Dennis, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Type of cured pork product	(Standards) minimum meat PFF percentage	(Labeling requirements) product name and qualifying statements
Do _____	<16.5	(Common and usual) and water product-X percent of weight is added ingredients.
Uncooked cured ham, loin.	18.0	Uncooked (common and usual).
Do _____	<18.0	Uncooked (common and usual) and water product-X percent of weight is added ingredients.
Uncooked cured shoulder butt, picnic.	17.5	Uncooked (common and usual).
Do _____	<17.5	Uncooked (common and usual) and water product-X percent of weight is added ingredients.
"Ham Patties," "Chopped Ham," "Pressed Ham," and "Spiced Ham".	19.5	(Common and usual).
Do _____	17.5	(Common and usual) with natural juices.
Do _____	16.0	(Common and usual) water added.
Do _____	<16.0	(Common and usual) water product-X percent of weight is added ingredients.

In addition to these standards, the Department set forth specific compliance procedures at § 318.19 of the Federal meat inspection regulations (9 CFR 318.19) for cured pork products which are prepared in federally inspected establishments within the United States.

Although these standards set forth in §§ 319.104 and 319.105 apply to cured pork products prepared domestically or in foreign establishments, the actual compliance procedures used by foreign governments which assure that the cured pork products comply with the standards may be different than the compliance procedures set forth in section 318.19 of the Federal meat inspection regulations (9 CFR 318.19) for cured pork products produced in the United States in federally inspected establishments. However, the system chosen by the foreign country must be at least equal to the compliance procedures used in the United States, as set forth in § 318.19 of the Federal meat inspection regulations.

Part 327 of the Federal meat inspection regulations (9 CFR Part 327) sets forth the Department's requirements for assuring that imported products are processed under inspection and other requirements at least equal to those applicable to domestic establishments in the United States.

Under those regulations, each foreign meat inspection system is subject to review and evaluation by the

Department for all inspection and other requirements of the Act and regulations thereunder applicable to domestic establishments in the United States. There are several facets to such review and evaluation. First, the foreign government's laws and regulations and organizational structure are compared to those of the United States. If the country's products are processed under inspection and other requirements at least equal to those applicable to domestic establishments in the United States, the country is informed of this determination, and an evaluation is then made of the country's system for administering and enforcing its laws and regulations. Following a determination that the system of administration and enforcement is also sufficient, including adequate personnel with recognized expertise, individual establishments within that foreign country are certified by the country as eligible to export products to the United States.

Determination of country eligibility and certification of establishments is followed by routine oversight by the Department to assure that the system is, in fact, operating acceptably. Regular oversight includes assessment of all those facets of a meat production and processing system which might result in adulterated or misbranded products being imported into the United States. One technique for gathering information about inspection controls in a country is through the review of inspection in establishments certified for export to the United States.

Finally, all imported product is subjected to varying levels and types of reinspection at the ports of entry (POE) into the United States. This reinspection provides further assurance that, under the foreign country's system of inspection, products are produced which meet requirements at least equal to those applied to products produced by federally inspected establishments in the United States.

This proposal addresses precisely those procedures to be used at the POE, including the administrative actions to be taken when the Department discovers, at the POE or in the marketplace, that an imported cured pork product is adulterated or misbranded. It should be noted that this proposal focuses, with the exception of cured pork products which violate the Absolute Minimum PFF Requirement noted below, on checking the effectiveness of the foreign country's compliance system to assure that only

unadulterated and accurately labeled cured pork products are exported to the United States.

In this proposal, the Department would monitor the foreign country's compliance system through a centrally administered sampling and evaluation program which would have a normal monitoring phase and a retention phase. Cured pork products imported from a foreign country will be examined under a normal monitoring procedure when the cured pork product is first imported into the United States. In this normal monitoring phase, FSIS inspectors will collect samples of cured pork product on a random basis from lots of cured pork products which are presented for importation at the POE. While the samples are being analyzed, the cured pork products will be released into commerce if the products are otherwise in compliance with the Act and the regulations thereunder.

Based upon the PFF sample results and calculations derived from the other criteria concerning the PFF samples, FSIS will determine what, if any, further actions FSIS will take regarding the matter.

Four measures (or criteria) will be used for checking a country's product are: The PFF Standardized Arithmetic Average for 100 Consecutive Lots; the PFF Weighted Average (based on pounds of product in the lot) for 100 Consecutive Lots; the PFF Standardized Arithmetic Average for 36 Consecutive Lots; and the PFF Weighted Average (based on pounds of product in the lot) for 36 Consecutive Lots. A fifth measure or criterion, the Absolute Minimum PFF Requirement, would also be used. This fifth measure is employed for a different reason, and will be discussed separately below.

The first measures are calculated in the following way. First, each sample (consisting of one sample unit unless otherwise specified) is analyzed for fat and meat protein content, and the PFF Percentage is calculated using the formula:

$$\frac{\text{Percent of meat protein}}{100 - \text{percent of fat}} \times 100 = \text{PFF}$$

Second, the standard minimum PFF value for the product being analyzed is subtracted from the sample PFF value. The resulting number is the PFF Difference for that sample which enables it to be compared to other

samples in that product group. Third, the PFF Difference is then divided by the standard deviation allowed for that product group. The resulting number is the PFF Standardized Difference, which allows that Standardized Difference for that sample to be compared to all other Standardized Differences for cured pork products prepared in that country. Fourth, the PFF Standardized Differences for all cured pork product are then averaged in groups of 36 and 100 for the Standardized Arithmetic Averages. Fifth, in order to determine the Weighted Averages, each PFF Standardized Difference is multiplied by the pounds of product in the lot that it represents, and the results are added and then divided by the total number of pounds in all the lots represented in that Weighted Average.

FSIS will use four PFF Standardized Averages, as safeguards against manipulation of import inspection by changing lot sizes: the PFF Standardized Arithmetic Average for 100 Consecutive Lots, the PFF Standardized Arithmetic Average for 36 Lots, Weighted Averages and Unweighted Averages.

The PFF Standardized Arithmetic Average for 100 Consecutive Lots is an effective measure of the long-term process controls in a foreign country. However, the PFF Standardized Arithmetic Average for 100 lots is not sufficient to detect violations in a few lots of cured pork product. Therefore, the PFF Standardized Arithmetic Average for 36 consecutive lots will be used. With respect to the selection of 100 lots, it was necessary to select a number sufficiently large so that sampling error is reduced to the point where it is inconsequential. For example, 150 lots could have been used as well; however, the Department is proposing the 100 lot average as adequate for this purpose. More lots than 36 could have been used, for 36 lot averages, but 36 were considered to be an adequate number without being burdensome.

Weighted averages, as well as unweighted averages, are used for both the 100 and the 36 consecutive lot averages. If unweighted averages were the only measures used, all lots would influence equally the country's status regardless of the size of the lots. If a country were to concentrate its inspection forces in smaller plants, the smaller lots if produced in large enough numbers would tend to keep the lot average of cured pork products high enough so that it would be satisfactory. The weighted averages, which would afford more emphasis to larger lots

depending on the poundage, would counter that tendency.

On the other hand, if only weighted averages of lots were used, a country could control the few large establishments and practically ignore small, possibly remote, establishments whose sample results would be negligible. The arithmetic average counter that tendency. Thus, because the United States requires all lots of product to be in compliance, the Department is proposing to use both weighted and unweighted averages.

As stated above, a country's product would be evaluated under the normal monitoring procedure when the product is first imported into this country. To facilitate the start-up of this system, the actual implementation would be preceded by a 60-day data collection period. Following the effective date of the program, any additional spaces in the 36 or 100 lot averages would be supplied as zero. For the weighted averages, the poundage would consist of the average observed in the 60 day period. If no lots have been observed, recent historical data would be used for developing weighted averages.

Once the program is in full operation, if any of the country's four PFF Standardized Averages fall below the respective required minimum, the Department would notify appropriate officials of that country and place the country under retention procedures. Any subsequent lot of cured pork product from the country would be held at the POE and samples would be taken and analyzed. A sample from a lot under retention would consist of five individual units (containers, cans, logs). The lot would be released into U.S. commerce if the analytical results showed the average PFF of the sample equalled or exceeded the minimum PFF requirement for the cured pork product as set forth in sections 319.104 and 319.105 of the Federal meat inspection regulations; Provided, that no individual result was as low as the Absolute Minimum PFF Requirement. Otherwise, the lot would be relabeled to conform with the section 319.104 or 319.105 of the regulations, or reexported, or destroyed, pursuant to the Act. This procedure of retaining and sampling every lot for compliance would continue for the country until the four PFF Standardized Averages had all reached specified levels. The level is different for the 36 lot average and for the 100 lot average, as explained below.

Because the Department does not want the chance of incorrectly placing a country under retention procedures to exceed 5 percent, the action level for 36

lot average is dictated by the point above which 95 percent of the Normal distribution lies. This point can be mathematically derived for the Arithmetic Average at  $-0.28$ . Its value depends on the production volume for the Weighted Average. Until the 36 sample average reaches this point, there would be no indication that violative product has been imported. Once that point was reached, however, the low values would be interpreted as evidence that a violation has occurred. The country would thus be required to remain under retention procedures until the 36 sample average reached the upper 5 percent of the Normal distribution, or a value of  $+0.28$  for the Arithmetic Average. This value is also a function of the production volume for the Weighted Average. A similar pair of numbers could be used for the 100 sample test. However, this test uses sufficient samples for the sample average to reflect the process average closely enough. Therefore, the value of zero is used as both the action level and the level for return to normal monitoring procedures in the 100 sample test.

The fifth calculation or criterion which will be utilized is the Absolute Minimum PFF Requirement. This criterion would establish, for every cured pork product with a PFF standard, an Absolute Minimum PFF Requirement, which is the same as those established for cured pork products prepared by meat processors in the United States. (See 9 CFR 318.19; 49 FR 14856). Should a single sample fail to meet this minimum, the represented lot would be U.S. retained if still at the inspection point. If elsewhere, it would be subject to administrative detention and other actions pursuant to the Act. Retention procedures would be instituted on future shipments of cured pork products from that foreign establishment.

The Department's intent to fully apply statistical procedures to improve its utilization of resources is responsible for product grouping, a salient feature of the proposed program. Substantial cross-utilization of data is possible when such data are generated from products upon which similar processing techniques are employed. Similarities in processing permit the establishment of four groups. The four cured pork product groups would be:

Group I, consisting of cured pork products which have been cooked while imperviously encased. Any product which fits into the Group shall be placed in this Group regardless of any other considerations.

Group II, consisting of cured pork products which have been water

cooked. Any product which does not fit into Group I but does fit into Group II will be placed into Group II regardless of any other considerations.

Group III, consisting of boneless, smokehouse heated cured pork products. Any boneless product that does not fit into Group I or Group II shall be placed in Group III.

Group IV, consisting of bone-in or semi-boneless smokehouse heated cured pork products. Any product that is not completely boneless or still contains all the bone which is traditional for bone-in product, and does not fit into Group I, Group II, or Group III shall be placed in this Group.

The Absolute Minimum PFF Requirement for a single sample of a Group I or II product is 2.3 percentage points below the applicable minimum requirement of § 319.104 or § 319.105, and for a Group III or Group IV product is 2.7 percentage points below that requirement. These figures are conservative estimates of the maximum range for any cured pork product in a lot that is in compliance with the standard.

The Department has in the past and will in the future conduct inspection, sampling and laboratory analysis of meat and meat food products found at various points in commerce, including the point of consumer purchase. With respect to cured pork products, it is expected that such inspection would include PFF determinations. In such cases, if Absolute Minimum PFF Requirements are not met, the product would be subject to United States retention if still at the inspection point, and if not to administrative detention and other actions pursuant to the Act. The Department would notify the country or origin, and would institute retention procedures on future shipments of product from the foreign establishment in question.

The establishment would remain in retention status and the importer, under the supervision of a program employee, would be required to collect five sample units for each lot, and the lot would be held under retention until the laboratory results are obtained. The sampling and subsequent analyses will be performed by the Department at no cost to the importer, except in cases where the importer chooses for convenience or expediency to have the analyses performed at the importer's expense in a laboratory accredited by the Department. If the average PFF of the five randomly selected samples is equal to or greater than the applicable PFF required, the lot would be released into commerce. If not, the lot may be relabeled under the supervision of a program employee, reexported, or

destroyed, pursuant to the Act. The inspection time to supervise such relabeling outside the official establishment would be charged by FSIS to the importer.

The plant would be returned to normal monitoring procedures when: (1) The average PFFs of five samples each from 10 consecutive lots of product from that plant have been obtained and the average of the five samples from each of the 10 lots has been found equal to or greater than the required minimum PFF standard for that product; and (2) none of the sample units out of the 50 has been as low as the Absolute Minimum PFF. Once a plant has been placed on retention for violation of the Absolute Minimum PFF requirement, the samples collected while on retention will not count against that country's 36 and 100 lot averages. The violative sample itself, of course, will be part of those averages.

#### List of Subjects in 9 CFR Parts 319 and 327

Meat inspection, Food labeling, Imported products.

#### PARTS 319 AND 327—[AMENDED]

1. The authority citation for Parts 319 and 327 is revised to read as follows:

Authority: 34 Stat. 1250, 61 Stat. 584, as amended (21 U.S.C. 601 *et seq.*); 72 Stat. 862, 92 Stat. 1069, as amended (7 U.S.C. 1901 *et seq.*); 76 Stat. 663 (7 U.S.C. 450 *et seq.*).

2. Section 319.104(a) [See 49 FR 14879, dated April 13, 1984] would be amended by revising footnote 1 of the chart to read as follows:

#### § 319.104 Cured Pork Products.

(a) \* \* \*

3. Part 327 (9 CFR Part 327) would be amended by adding a new § 327.23 to read as follows:

#### § 327.23 Compliance procedure for imported cured pork products.

(a) *Definitions.* For the purposes of this section:

(1) A *Product* is that cured pork article which is contained within one Group as defined in paragraph (a)(2) of this section and which purports to meet the criteria for a single product designated under the heading "Product Name and Qualifying Statements" in the chart in § 319.104 or § 319.105 of this subchapter.

(2) A *Product Group* or a *Group* means one of the following:

1 The minimum meat PFF percentage shall be the minimum meat protein which is indigenous to the raw unprocessed pork expressed as a percent of the non-fat portion of the finished product; and compliance shall be determined under § 319.19 of this subchapter for domestic cured pork product and § 327.23 of this subchapter for imported pork product.

(i) Group I, consisting of cured pork products which have been cooked while imperviously encased. Any product that fits into the Group shall be placed in this Group regardless of any other considerations.

(ii) Group II, consisting of cured pork products which have been water cooked. Any product that does not fit into Group I but does not fit into Group II shall be placed into Group II regardless of any other considerations.

(iii) Group III, consisting of boneless, smokehouse heated cured pork products. Any boneless product that does not fit into Group I or II shall be placed in Group III.

(iv) Group IV, consisting of bone-in or semi-boneless smokehouse heated cured pork products. Any product that is not completely boneless or still contains all the bone which is traditional for bone-in product and does not fit into Group I, II, or III shall be placed in this Group.

(3) *Protein Fat-Free Percentage, Protein Fat-Free Content, PFF Percentage, PFF Content or PFF* of a product means the meat protein (indigenous to the raw, unprocessed pork cut) content expressed as a percent of the non-fat portion of the finished product.

(4) A *PFF Standardized Difference* is the PFF of the sample minus the minimum PFF requirement, set forth in § 319.104 and § 319.105 of this subchapter, for the product being analyzed, divided by the Appropriate Standard Deviation for the product group.

*Sample PFF—Minimum PFF Requirement* =  $\frac{\text{PFF Standardized Difference}}{\text{Appropriate Standard Deviation}}$

(5) The *Absolute Minimum PFF Requirement* is that no laboratory result on an individual sample for PFF content be below the applicable minimum requirement of § 319.104 or § 319.105 of this subchapter by 2.3 or more percentage points for a Group I or II product or 2.7 or more percentage points for a Group III or IV product.

(6) A *PFF Standardized Arithmetic Average of the Country's Products* is the arithmetic average of PFF Standardized Differences from either 36 or 100 consecutively sampled lots of product entering the United States from a given producing country.

(7) A *PFF Standardized Weighted Average of the Country's Products* is an estimate of the average of the PFF Standardized Differences from either 36 or 100 consecutively sampled lots, adjusted for the size of the lot, of different types of cured pork product entering the United States from a given

producing country. A Standardized Weighted Average is computed by multiplying the PFF Standardized Difference calculated for each lot by the number of pounds of product in each lot, adding those results together, and dividing the sum by the total weight of product from all the lots making up the average.

(8) The *Appropriate Standard Deviation* is based on within lot variability. That assigned to Groups I and II = 0.75 percent PFF and that assigned to Groups III and IV = 0.91 percent PFF.

(9) A *Lot* is all product of one type from one establishment presented by an importer as the unit for inspection at the Port of Entry.

(b) *Normal Monitoring Procedures.* The Department shall collect sample(s) of cured pork product on a random basis from lots presented for importation at the Port of Entry and, after analyzing the sample for fat and indigenous protein content, calculate the PFF percentage. The product shall not be held pending laboratory results during the monitoring phase. The PFF percentage for each sample shall be considered along with the cumulative results of prior samples to assess the effectiveness of a country's overall compliance program and to determine the course of action for subsequent lots of product.

(1) Factors determining whether a country's inspection system is functioning adequately:

(i) The PFF percentage for each sample must not be below the minimum PFF requirement by 2.3 percentage points for cured pork products in Groups I and II or 2.7 percentage points for cured pork products in Groups III and IV.

(ii) Both of the PFF Standardized Averages, Arithmetic and Weighted, for the last 100 consecutive lots of all cured pork products from the country must be equal to or greater than zero. The count for the 100 consecutive lots starts with the lots arriving from that country after the publication of this rule.

(iii) Both of the PFF Standardized Averages, Arithmetic and Weighted, for the last 36 consecutive lots of all cured pork products from the country must be above the lowest 5 percent of the Normal distribution. This minimum value is minus 0.28 (—0.28) for the Arithmetic Average and depends on the production volume for the Weighted Average.

(2) Actions when calculations indicate that processing procedures in a country are out-of-compliance:

(i) If the PFF level of a sample taken during normal monitoring procedures is found to be as low as the Absolute Minimum PFF Requirement, the country of origin shall be notified; the lot involved shall be retained if still available in an official establishment or subject to detention or other actions pursuant to the Act; and all subsequently presented lots of that cured pork product from the *same foreign establishment* shall be held under retention until the provisions of paragraph (c) of this section are satisfied.

(ii) If either of the PFF Standardized Averages, Arithmetic or Weighted, for the last 100 consecutive lots falls below zero or either of the PFF Standardized Averages for the last 36 consecutive lots falls below the upper 95 percent of the Normal distribution, all available cured pork product from the foreign country shall be subject to administrative retention and all subsequently presented lot of cured pork product from the foreign country shall be held under retention until the provisions of paragraph (c) are satisfied. The country of origin shall be notified, and shall be subject to other actions pursuant to the Act.

(c) *Retention.* When lots of cured pork product are under retention they shall be refused entry and reexported in accordance with § 327.13 of this subchapter unless they can be released in accordance with the provisions of paragraph (c)(1) of this section, establishments may be returned to normal monitoring procedures in accordance with paragraph (c)(2) of this section, and countries may be returned to normal monitoring procedures in accordance with paragraph (c)(3) of this section.

(1) If a lot is subject to retention procedures under this section, the importer, under the supervision of a program employee, shall collect five randomly selected sample units specified by the Department and determine the PFF of each sample unit. The lot may be released into commerce if:

(i) the average PFF percentage of the five randomly selected sample units is equal to or greater than the applicable minimum PFF percentage required by § 319.104 or § 319.105 of this subchapter, or

(ii) the product is relabeled under the supervision of a program employee so that it conforms to the provisions of § 319.104 or § 319.105 of this subchapter.

(2) If product from a foreign establishment is subject to retention procedures under this section, the foreign establishment may be returned to normal monitoring procedures when:

(i) Ten consecutively presented lots of cured pork product from that establishment have been sampled as provided in paragraph (c)(1) of this section and the average of each set of five sample units representing each lot have been found to be equal to or greater than the required minimum PFF percentage; and

(ii) The PFF percentage of each sample unit (50 in all) is above the Absolute Minimum PFF Percentage.

(3) If a country is subject to retention procedures under this section, the country shall be returned to normal monitoring procedures when:

(i) Twenty-five consecutively presented lots of cured pork product have been sampled as required in paragraph (c)(1) of this section and the average of each set of five sample units representing each lot have been found to be equal to or greater than the required minimum PFF percentage; and

(ii) The PFF percentage of each sample unit (125 in all) is above the Absolute Minimum PFF Percentage; and

(iii) Both of the PFF Standardized Averages for 36 consecutive lots are in the required percentage of the Normal distribution; and

(iv) Both of the PFF Standardized Averages for 100 consecutive lots are zero or higher.

(d) *Adulterated and Misbranded Products.* Products not meeting specified PFF requirements, determined according to procedures set forth in this section, may be deemed adulterated under section 1(m)(8) of the Act (21 U.S.C. 601(m)(8)) and misbranded under section 1(n) of the Act (21 U.S.C. 601(n)).

(e) Activities requiring additional inspectional supervision such as relabeling, shall be at the importer's expense. In addition if the importer wishes he may have samples analyzed at an accredited laboratory at his own expense.

Done at Washington, DC, on September 24, 1984.

Donald L. Houston,  
Administrator, Food Safety and Inspection Service.

[FR Doc. 84-23616 Filed 10-5-84; 8:45 am]

BILLING CODE 3410-DM-M



**DEPARTMENT OF TRANSPORTATION**  
**Federal Aviation Administration**  
**14 CFR Part 39**  
**[Docket No. 84-CE-28-AD]**

**Airworthiness Directives; Gulfstream Aerospace Models 112, 112B, 112TC, 112TCA, 114, and 114A Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of Proposed Rulemaking (NPRM).

**SUMMARY:** This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to Gulfstream Aerospace Corporation Models 112 and 114 Series airplanes. This AD would supersede existing AD 77-16-09 and require modification of the front seat base structure and relocation of the shoulder strap anchor. Failure of the front seat rollers and release of the seats has occurred during some accident impacts. This increases the possibility of serious injury or fatality during otherwise survivable accidents. The modification will improve retention of the seat on the track and occupant restraint during an accident.

**DATE:** Comments must be received on or before November 27, 1984.

**ADDRESSES:** Gulfstream Aerospace Service Bulletins No. SB-112-70 and SB-114-21 both dated September 7, 1984, applicable to this AD may be obtained from Gulfstream Aerospace Corporation, Wiley Post Airport, Post Office Box 22500, Oklahoma City, Oklahoma 73123 or the Rules Docket at the address below.

Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 84-CE-28-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Tom Dragset, Airplane Certification Branch, ASW-150, FAA, Southwest Region, Post Office Box 1689, Fort Worth, Texas 76101; Telephone (817) 817-2075.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on

or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

**Availability of NPRMs**

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84-CD-28-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64018.

**Discussion**

To improve front seat retention during hard landings or minor crash impacts Rockwell International General Aviation Division (the former Type Certificate holder) redesigned the front seat bases and incorporated the new design in seats installed in subsequently produced Models 112, 112TC and 114 airplanes. It also made available in Rockwell Service Bulletins No. 112-45A and No. 114-6A both dated April 7, 1977, instructions and parts for incorporation of equivalent improvements on already produced airplanes of these models. The FAA made compliance with these service bulletins on in-service airplanes mandatory by AD 77-16-09, Amendment 39-3004 (42 FR 41105).

Since the issuance of AD 77-16-09 the manufacturer and FAA determined that on airplanes modified per this AD and subsequently type certificated Models 112B, 112TCA and 114A airplanes the retention of front seats during impact conditions should be improved to increase passenger safety during crashes or emergency landings. Investigation of four accidents revealed that in some cases the seat attachment rollers failed and released the seat which allowed the occupants to impact the instrument panel. It is possible that unexpected deflections were occurring during impact which, in effect, increased the load applied to the seat rollers by spreading the fuselage, increasing the bending moment on the rollers and causing sufficient deformation to release the seat from the seat track. To reduce

the possibility of this occurrence, Gulfstream Aerospace Corporation (the present Type Certificate holder) has developed modifications to strengthen the seat base structure in the mounting area and relocate the shoulder harness anchor from the seat to the airplane cabin roof. These modifications will improve seat retention to the airplane cabin floor structure and transfer some passenger restraint loads developed during impact from the seat to the airplane cabin structure. The FAA believes these modifications will improve the probability of front seat passenger survival during some accidents. Gulfstream Aerospace has made parts and instructions for accomplishing the above modifications available in Service Bulletins No. 112-70 applicable to Model 112 Series airplanes and No. 114-21 applicable to the Model 114 Series airplanes, both dated September 7, 1984.

Since the condition described herein is likely to exist or develop in other Gulfstream Aerospace Models 112, 112B, 112TC, 112TCA, 114, and 114A airplanes of the same design, the AD would supersede AD 77-16-09 and require modification of the front seats and relocation of the shoulder harness attachment to the airplane structure in accordance with Gulfstream Aerospace Corporation Service Bulletins No. 112-70 or 114-21 as applicable.

The FAA has determined there are approximately 1,390 airplanes affected by the proposed AD. The cost of modifying the front seats and relocating the shoulder harness anchor in accordance with the proposed AD is estimated to be \$1,495 per airplane. The total cost is estimated to be \$2,078,050 to the private sector. It would be necessary for a small entity to own more than two of the affected airplanes to incur a significant cost of compliance with this proposal and few if any small entities affected by the proposal will own more than one of the affected airplanes.

Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

**List of Subjects in 14 CFR Part 39**

Air transportation, Aviation safety, Aircraft, Safety.

**The Proposed Amendment**

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new AD:

**Gulfstream Aerospace (Rockwell):** Applies to Models 112 and 112B, (S/Ns 3 through 344 and 13000); Models 112TC and 112TCA (S/Ns 13001 through 13309); and Models 114 and 114A (S/Ns 14000 through 14540) airplanes certificated in any category.

**Compliance:** Required within 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To improve seat retention and passenger restraint during crash landing or accident impact, accomplish the following:

(a) Modify the front seat base and relocate the front seat shoulder harness anchor in accordance with Gulfstream Aerospace Service Bulletins No. 112-70 or No. 114-21 both dated September 7, 1984, as applicable.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) An equivalent method of compliance with this AD may be used if approved by the Manager, Airplane Certification Branch, ASW-150, FAA Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76101; Telephone (817) 877-2074.

This AD supersedes Ad 77-16-09, Amendment 39-3004.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and § 11.85 of the Federal Aviation Regulations (14 CFR 11.85))

Issued in Kansas City, Missouri, on September 27, 1984.

Murray E. Smith,  
Director, Central Region.

[FR Doc. 84-26553 Filed 10-5-84; 8:45 am]  
BILLING CODE 4910-13-M

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 301**

[LR-280-82]

**Modification of Interest Payments for Certain Periods; Proposed Rulemaking**

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations relating to the accrual of interest on overpayments and underpayments of tax. Changes to the

applicable tax law were made by the Tax Equity and Fiscal Responsibility Act of 1982 and the Tax Reform Act of 1984. The proposed regulations provide guidance to taxpayers in determining when interest accrues on underpayments and overpayments of tax.

**DATE:** Written comments and requests for a public hearing must be delivered by December 10, 1984. Except as otherwise provided, the regulations are proposed to apply to returns filed, and interest accrued, after October 3, 1982, and are proposed to be effective on October 4, 1982.

**ADDRESS:** Send comments and request for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-280-82), Washington, D.C. 20224.

**FOR FURTHER INFORMATION CONTACT:** Howard A. Balikov of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3288), not a toll-free call.

**SUPPLEMENTARY INFORMATION:****Background**

This document contains proposed amendments to the Regulations on Procedure and Administration (26 CFR Part 301) under sections 6601 and 6611 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 346 of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 636) and section 714 (n) of the Tax Reform Act of 1984 (98 Stat. 963) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

**In General**

The proposed regulations provide rules with respect to the period during which interest accrues on underpayments and overpayments of tax under section 6601 and 6611. These rules will not affect the determination of when the statute of limitations begins to run. In general, taxpayers must pay interest at a rate established under section 6621 on any amount of unpaid tax during the period of time specified in section 6601(a). Section 6601(d) establishes the period during which interest accrues on an underpayment of tax that is reduced by a carryback of a subsequent net operating loss, net capital loss, or certain credits. Taxpayers are entitled to interest at a rate established under section 6621 on overpayments of tax for the period of time specified in section 6611.

**Prior Law**

Under prior section 6601(d), the carryback of a net operating loss, net capital loss or certain credits to a year in which there was an underpayment of income tax reduced the underpayment, for purposes of computing interest on the underpayment, at the end of the taxable year in which the carryback arose.

Under prior section 6611, if an overpayment of tax was credited against other tax liability of the taxpayer, interest was generally allowed from the date of the overpayment (the date of payment of the first amount which, when added to previous payments, is in excess of the tax liability) to the due date of the amount against which the credit was taken. If an overpayment of tax was refunded to the taxpayer, interest was generally allowed from the date of the overpayment to a date preceding the date of the refund check by not more than 30 days. If, however, an overpayment of income tax was refunded within 45 days after the due date (determined without any extension of time) for filing a return (or, in the case of a return filed after the last date prescribed for filing, within 45 days after the return is filed), no interest was allowed on the payment. Furthermore, prior section 6611(f) stated that if a carryback of a net operating loss, net capital loss, or certain credits, caused an overpayment of income tax, the overpayment arose at the close of the taxable year in which the loss or credit arose.

**TEFRA Amendments**

The Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) amended section 6601(d) and section 6611. Section 6601(d), as amended, provides that the carryback of the loss or credit does not reduce the underpayment until the due date (without extensions) of the return for the taxable year in which the loss or credit arose.

Under section 6611(b)(3), as amended, if a return is filed after the due date (including extensions), no interest accrues on a credit or refund of an overpayment of tax until the return is filed. The return will not be treated as filed until it is filed in processible form. In addition, a return will not be treated as filed under section 6611(e), for the purpose of determining whether a refund has been made within 45 days after filing, until a return is filed in processible form. See section 6611(i). A return is filed in processible form if the return is filed on a permitted form and



the return contains the taxpayer's name, address, and identification number, the required signature, and sufficient information to permit the mathematical verification of the tax liability shown on the return. The proposed regulations provide examples of what constitutes a return filed in processible form.

Section 6611(f), as amended by TEFRA, provides that the interest period for refunds of overpayments of income tax caused by a carryback of a net operating loss, net capital loss, or certain credits begins as of the due date (without extensions) of the return for the taxable year in which the loss or credit arises. Section 6611(f) further provides that the 45-day interest-free refund period of section 6611(e) is applied to refunds of overpayments resulting from a loss of credit carryback by treating the overpayment of tax as having occurred in the loss year and treating the return for the loss year as not being filed until the "claim" for the overpayment is filed. As a result, no interest is allowed on an overpayment resulting from a loss of credit carryback if the overpayment is refunded within 45-days of the later of the filing date for the loss year, or the date the claim is filed. Section 6611(f)(3)(B)(i)(II) in essence treats the claim as the return for purposes of the 45-day interest-free refund period under section 6611(c). The processible-form requirements of section 6611(i), therefore, apply to the claim for overpayment. Both the claim and the return must be in processible form. In addition, the proposed regulations treat a claim for a tentative carryback adjustment as a "claim" for purposes of section 6611(f)(3)(B)(i).

Section 6611(f)(3)(C), as amended by the Tax Reform Act of 1984, provides that if an application for a tentative carryback adjustment is filed after a claim for refund, the claim is treated as if it were filed on the date the application for a tentative carryback adjustment was filed. The effective date for the change made by the Tax Reform Act of 1984 is the same as the effective date for the changes made by TEFRA.

This regulation provides examples illustrating the determination of the interest period for: (1) Interest accruing before and after October 3, 1982; and (2) returns and claims for refund filed before and after October 3, 1982.

#### Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for

public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of these comments to the Service.

#### Special Analysis

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. The Internal Revenue Service has concluded that although this document is a notice of proposed rulemaking that solicits public comment, the regulations proposed herein are interpretative and the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, no Regulatory Flexibility Analysis is required for this rule.

#### Drafting Information

The principal author of these regulations is Howard A. Balikov of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

#### List of Subjects in 26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Penalties, Pensions, Statistics, Taxes, Disclosure of information, Filing requirements.

#### Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 301 are as follows:

#### PART 301—AMENDED

Paragraph 1. Section 301.6601-1 is amended as follows:

1. Paragraph (d) is revised to read as set forth below.

2. Paragraphs (e)(1) and (e)(3) are revised to read as set forth below.

3. New Paragraphs (e)(4) and (e)(5) are added as set forth below.

#### § 301.6601-1 Interest on underpayments.

(d) *Suspension of interest; waiver of restrictions on assessment.* In the case of a deficiency determined by a district director (or an assistant regional commissioner, appellate) with respect to any income, estate, gift tax, or excise tax imposed by chapters 41, 42, 43, 44, and 45, if the taxpayer files with such internal revenue officer an agreement waiving the restrictions on assessment of such deficiency, and if notice and demand for payment of such deficiency is not made within 30 days after the filing of such waiver, no interest shall be imposed on the deficiency for the period beginning immediately after such 30th day and ending on the date notice and demand is made. In the case of an agreement with respect to a portion of the deficiency, the rules as set forth in this paragraph are applicable only to that portion of the deficiency to which the agreement relates.

(e) *Income tax reduced by a carryback.* (1)(i) The carryback of a net operating loss, net capital loss, or a credit carryback as defined by § 301.6611-1 (f)(1) shall not affect the computation of interest on any income tax for the period commencing with the last day prescribed for the payment of such tax and ending with the filing date, as defined in paragraph (e)(4) of this section, for the taxable year in which the loss or credit arises. For example, if the carryback of a net operating loss, a net capital loss, or a credit carryback to a prior taxable period eliminates or reduces a deficiency in income tax for that period, the full amount of the deficiency will bear interest at the annual rate established under section 6621 from the last date prescribed for payment of such tax until the filing date for the taxable year in which the loss or credit arose. Interest will continue to run beyond such filing date on any portion of the deficiency which is not eliminated by the carryback. With respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, a capital loss carryback or other credit carryback from a subsequent taxable year, such credit carryback shall not affect the

computation of interest on any income tax for the period commencing with the last day prescribed for the payment of such tax and ending with the filing date for such subsequent taxable year.

(ii) The provisions of paragraph (e)(1)(i) of this section are illustrated by the following examples.

*Example (1).* Corporation L is a calendar year taxpayer. For taxable years 1980 and 1981, L reported no income tax liability. For 1982, L has an underpayment of income tax of \$500. In 1983, L has a net operating loss which L carries back to 1982, reducing the underpayment to \$200. For purposes of computing the interest on the underpayment of income tax for 1982, interest will accrue on the \$500 beginning on March 15, 1983. Beginning on March 16, 1984, interest on the 1982 income tax underpayment will accrue on only \$200.

*Example (2).* Corporation R is a calendar year taxpayer. For taxable years 1980, 1981 and 1982, R reported no income tax liability. For 1983, R had a net operating loss which could not be carried forward to 1984 because R had reported no income tax liability for 1984. As a result of an audit conducted on R in 1985, a \$500 deficiency is assessed on R for taxable year 1982. R applied the 1983 operating loss to the \$500 assessed deficiency, thus reducing the deficiency to \$200. Interest begins accruing on the \$500 deficiency on March 15, 1983. Beginning on March 16, 1984, interest on the 1982 deficiency will accrue on only \$200.

(3) Where there has been an allowance of an overpayment attributable to a net operating loss carryback, a capital loss carryback or a credit carryback as defined by § 301.6611-1(f)(1) and all or part of such allowance is later determined to be excessive, interest shall be computed on the excessive amount from the filing date for the year in which the net operating loss, net capital loss, or credit arose until the date on which the repayment of such excessive amount is received. Where there has been an allowance of an overpayment with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year and all or part of such allowance is later determined to be excessive, interest shall be computed on the excessive amount from the filing date for such subsequent taxable year until the date on which the repayment of such excessive amount is received.

(4) For purposes of paragraph (e) of this section, the term "filing date" means the last day fixed by law or regulation for filing the return of income tax for the taxable year (determined without regard to any extension of time).

(5) Section 301.6601-1(e) (1), (3) and (4) apply to interest accruing after October 3, 1982. See 26 CFR 301.6601-1(e) (revised as of April 1, 1982) for rules applicable to interest accruing before October 4, 1982.

Par. 2. Section 301.6611-1 is revised to read as follows:

**§ 301.6611-1 Interest on overpayments.**

(a) *General rule.* Except as otherwise provided, interest shall be allowed on any overpayment of any tax at the annual rate established under section 6621 from the date of overpayment of the tax.

(b) *Date of overpayment.* (1) *In general.* Except as provided in section 6401(a), relating to assessment and collection after the expiration of the applicable period of limitation, there can be no overpayment of tax until the entire tax liability has been satisfied. Therefore, the dates of overpayment of any tax are the date of payment of the first amount which (when added to previous payments) is in excess of the tax liability (including any interest, addition to the tax, or additional amount) and the dates of payment of all amounts subsequently paid with respect to such tax liability. For rules relating to the determination of the date of payment in the case of an advance payment of tax, a payment of estimated tax, and a credit for income tax withholding, see paragraph (d) of this section.

(2) *Period for which interest is allowable in the case of credits of overpayment—(i) General rule.* If an overpayment of tax is credited, interest shall be allowed from the date of overpayment to the due date (as determined under paragraph (b)(2)(ii) of this section) of the amount against which such overpayment is credited. See paragraph (b)(4) of this section for late returns.

(ii) *Determination of due date.* (A) *In general.* The term "due date", as used in this section, means the last day fixed by law or regulations for the payment of the tax (determined without regard to any extension of time), and not the date on which the district director or the director of the regional service center makes demand for the payment of the tax. Therefore, the due date of a tax is the date fixed for the payment of the tax or the several installments thereof.

(B) *Tax payable in installments.* (1) *In general.* In the case of a credit against a tax, where the taxpayer had properly elected to pay the tax in installments, the due date is the date prescribed for the payment of the installment against which the credit is applied.

(2) *Delinquent installment.* If the taxpayer is delinquent in payment of an installment of tax and a notice and demand has been issued for the payment of the delinquent installment and the remaining installments, the due date of each remaining installment shall then be the date of such notice and demand.

(C) *Tax or installment not yet due.* If a taxpayer agrees to the crediting of an overpayment against tax or an installment of tax and the schedule of allowance is signed prior to the date on which such tax or installment would otherwise become due, then the due date of such tax or installment shall be the date on which such schedule is signed.

(D) *Assessed interest.* In the case of a credit against assessed interest, the due date is the date of the assessment of such interest.

(E) *Additional amount, addition to the tax, or assessable penalty.* In the case of a credit against an amount assessed as an additional amount, addition to the tax, or assessable penalty, the due date is the date of the assessment.

(F) *Estimated income tax for succeeding year.* If the taxpayer elects to have all or part of the overpayment shown by his return applied to his estimated tax for his succeeding taxable year, no interest shall be allowed on such portion of the overpayment credited and such amount shall be applied as a payment on account of the estimated tax for such year or the installments thereof.

(3) *Period for which interest is allowable in the case of refunds of overpayment.* If an overpayment of tax is refunded, interest shall be allowed from the date of the overpayment to a date determined by the district director or the director of the regional service center, which shall be not more than 30 days prior to the date of the refund check. The acceptance of a refund check shall not deprive the taxpayer of the right to make a claim for any additional overpayment and interest thereon, provided the claim is made within the applicable period of limitation. However, if a taxpayer does not accept a refund check, no additional interest on the amount of the overpayment included in such check shall be allowed. See paragraph (b)(4) of this section for late returns.

(4) *Late returns.* For the purpose of paragraphs (b)(2), (b)(3) and (f) of this section, if, after October 3, 1982, a return is filed after the last date prescribed for filing such return (including any extension of time for filing the return), no interest shall be allowed or paid for

any day before the date on which the return is filed. A return will not be treated as filed until it is filed in processible form. For rules relating to the processible form requirement, see paragraph (h)(1) of this section.

(c) *Examples.* The provisions of paragraph (b) of this section may be illustrated by the following examples:

*Example (1).* Corporation X files an income tax return on March 15, 1955, for the calendar year 1954 disclosing a tax liability of \$1,000 and elects to pay the tax in installments. Subsequent to payment of the final installment, the correct tax liability is determined to be \$900.

Tax Liability	
Assessed	\$1,000
Correct liability	900
Overassessment	100
Record of payments	
Mar. 15, 1955	500
June 15, 1955	500

Since the correct liability in this case is \$900, the payment of \$500 made on March 15, 1955, and \$400 of the payment made on June 15, 1955, are applied in satisfaction of the tax liability. The balance of the payment made on June 15, 1955 (\$100) constitutes the amount of the overpayment, and the date on which such payment was made would be the date of the overpayment from which interest would be computed.

*Example (2).* Corporation Y files an income tax return for the calendar year 1954 on March 15, 1955, disclosing a tax liability of \$50,000, and elects to pay the tax in installments. On October 15, 1956, a deficiency in the amount of \$10,000 is assessed and is paid in equal amounts on November 15 and November 26, 1956. On April 15, 1957, it is determined that the correct tax liability of the taxpayer for 1954 is only \$35,000.

Tax Liability	
Original assessment	\$50,000
Deficiency assessment	10,000
Total assessed	60,000
Correct liability	35,000
Overassessment	25,000
Record of payments	
Mar. 15, 1955	25,000
June 15, 1955	25,000
Nov. 15, 1956	5,000
Nov. 26, 1956	5,000

Since the correct liability in this case is \$35,000, the entire payment of \$25,000 made on March 15, 1955, and \$10,000 of the payment made on June 15, 1955, are applied in satisfaction of the tax liability. The balance of the payment made on June 15, 1955 (\$15,000), plus the amounts paid on November 15 (\$5,000), and November 26, 1956 (\$5,000), constitute the amount of the overpayment. The dates of the overpayments from which interest would be computed are as follows:

Date	Amount of overpayment
June 15, 1955	\$15,000
Nov. 15, 1956	5,000
Nov. 26, 1956	5,000

The amount of any interest paid with respect to the deficiency of \$10,000 is also an overpayment.

*Example (3).* Corporation Z failed to file a timely income tax return for the calendar year 1982. Z filed the 1982 return on November 20, 1983, disclosing a tax liability of \$50,000 which was paid in full on March 15, 1983. On October 15, 1984, a deficiency in the amount of \$10,000 is assessed and is paid on November 15, 1984. On April 15, 1985, it is determined that the correct tax liability of the taxpayer for 1982 is only \$35,000.

Tax Liability	
Original assessment	\$50,000
Deficiency assessment	10,000
Total assessed	\$60,000
Correct liability	35,000
Overassessment	\$25,000
Record of payments	
March 15, 1983	\$50,000
Nov. 15, 1984	10,000

Since the correct liability in this case is \$35,000, only \$35,000 of the \$50,000 payment made on March 15, 1983 is applied in satisfaction of the tax liability. The balance of the payment made on March 15, 1983 (\$15,000), plus the amount paid on November 15, 1984 (\$10,000), constitute the amount of the overpayment. The dates of the overpayment from which interest would be computed are as follows:

Date	Amount of overpayment
Nov. 20, 1983	\$15,000
Nov. 15, 1984	10,000

The amount of any interest paid with respect to the deficiency of \$10,000 is also an overpayment.

(d) *Advance payment of tax, payment of estimated tax, and credit for income tax withholding.* In the case of an advance payment of tax, a payment of estimated income tax, or a credit for income tax withholding, the provisions of section 6513 (except the provisions of subsection (c) thereof), applicable in determining the date of payment of tax for purposes of the period of limitations on credit or refund, shall apply in determining the date of overpayment for purposes of computing interest thereon.

(e) *Refund of overpayment within 45 days after return is filed.* No interest shall be allowed on any overpayment of tax imposed by subtitle A of the Code if such overpayment is refunded—

(1) In the case of a return filed on or before the last date prescribed for filing the return of such tax (determined without regard to any extension of time for filing such return), within 45 days after such last date, or

(2) After December 17, 1966, in the case of a return filed after the last day prescribed for filing the return, within 45 days after the date on which the return is filed.

For the purpose of this paragraph (e), a return filed after October 3, 1982, will not be considered filed until it is filed in processible form, (as determined under paragraph (h)(1) of this section).

(f) *Refund of income tax caused by carrybacks—(1) In general.* If any overpayment of tax imposed by subtitle A of the Code results from the carryback of a net operating loss, a net capital loss, or a credit carryback, such overpayment, for purposes of this section, shall be deemed not to have been made prior to the filing date for the taxable year in which the loss or credit arises, or, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, a capital loss carryback, or other credit carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made prior to the filing date for such subsequent taxable year.

The term "credit carryback" means any investment credit carryback, work incentive program credit carryback, new employee credit carryback, research credit carryback, or employee stock ownership credit carryback. The term "filing date" means the last day fixed by law or regulation for filing the return of tax imposed by subtitle A for the taxable year (determined without regard to any extension of time).

(2) *Special rules for carrybacks—(i) In general.* An overpayment of tax described in paragraph (f) (1) of this section is treated as an overpayment for the loss year (as defined in paragraph (F)(2)(ii) of this section). In applying sections 6611(e) and 6611(f)(3)(B), and solely for purposes of those sections, the following rules apply:

(A) No interest is payable if the overpayment for the loss year is refunded within 45 days after the later of the filing of the claim for refund of the overpayment or the filing date of the return of tax imposed by subtitle A for that year. For this purpose, if an application for tentative carryback adjustment (an application under section 6411(a)) with respect to a particular overpayment is filed after the filing of a claim for refund for the overpayment, the claim for refund is

treated as filed on the date the application for tentative carryback adjustment is filed;

(B) A claim for refund of the overpayment will not be treated as filed unless it is filed in processible form (as described in paragraph (h)(1) of this section);

(C) The term "claim" includes claim for credit or refund (e.g., an amended tax return (the Form 1040X or Form 1120X for individuals or corporations, respectively)) and an application for a tentative carryback adjustment; and

(D) The filing date of the return of tax imposed by subtitle A may not be earlier than the last date prescribed for filing such return (determined without extensions).

(ii) *Loss year.* The term "loss year" means—

(A) In the case of a carryback of a net operating loss or net capital loss, the taxable year in which such loss arises;

(B) In the case of a credit carryback (as defined by paragraph (f)(1) of this section), the taxable year in which such credit carryback arises; and

(C) In the case of any portion of a credit carryback from a taxable year to which a net operating loss, a net capital loss, or any other credit carryback was carried from a subsequent taxable year, the subsequent taxable year.

(iii) *Cross references.* See section 6611(i) which treats the return of tax imposed by subtitle A for the loss year as not filed for purposes of section 6611(e) unless it is filed in processible form. Also see section 6611(b)(3) and paragraph (b)(4) of this section for rules that apply to late returns.

(iv) *Effective date.* Section 301.6611-1(f) applies to interest accruing after October 3, 1982. See 26 CFR 301.6611-1(f) (revised as of April 1, 1982) for rules applicable to interest accruing before October 4, 1982.

(v) *Examples.* The provisions of this section may be illustrated by the following examples:

*Example (1).* Corporation Q is a calendar year taxpayer. For taxable years 1978, 1979, and 1980, net capital gains were reported. However, for 1981 Q had a net capital loss which Q could carry back to 1978, resulting in an overpayment for that year. Q properly filed the 1981 tax return on March 15, 1982. Q properly filed the claim for refund of the overpayment resulting from the carryback on November 15, 1982.

(a) If the refund is made within 45 days after filing the claim then interest will accrue between January 1, 1982 and October 3, 1982.

(b) If the refund is made more than 45 days after filing the claim then interest will accrue from January 1, 1982.

*Example (2).* Corporation R reports income on a fiscal year ending August 31. For taxable years ending August 31, 1979, 1980, and 1981,

net capital gains were reported. However, for the taxable year ending August 31, 1982, R had a net capital loss which R could carry back to 1979, resulting in an overpayment for that year. R properly filed the 1982 tax return on October 15, 1982. R properly filed the claim for refund of the overpayment on November 10, 1982.

(a) If the refund is made within 45 days after November 15, 1982, then interest will accrue from September 1, 1982 until October 3, 1982.

(b) If the refund is made more than 45 days after November 15, 1982, then interest will accrue from September 1, 1982 until October 3, 1982 and from November 15, 1982.

*Example (3).* Corporation S is a calendar year taxpayer. For taxable years 1979, 1980, and 1981, net capital gains were reported. However, for 1982, S had a net capital loss which S could carry back to 1979, resulting in an overpayment for that year. S properly filed the 1982 tax return on February 4, 1983. S properly filed the claim for refund of the overpayment on February 15, 1983.

(a) If the refund is made within 45 days after March 15, 1983, then no interest will accrue on the overpayment.

(b) If the refund is made after 45 days of March 15, 1983, then interest will accrue from March 15, 1983.

*Example (4).* Corporation Y is a calendar year taxpayer. For taxable years 1979, 1980, and 1981, net capital gains were reported. However, for 1982, Y had a net capital loss which Y could carry back to 1979, resulting in an overpayment for that year. Y properly filed the 1982 tax return on March 1, 1983. Y properly filed the claim for refund of the overpayment on May 15, 1983.

(a) If the refund is made within 45 days after May 15, 1983, then no interest will accrue on the overpayment.

(b) If the refund is made more than 45 days after May 15, 1983, then interest will accrue from March 15, 1983.

*Example (5).* Corporation Z is a calendar year taxpayer. For taxable years 1979, 1980, and 1981, net capital gains were reported. However, for 1982, Z had a net capital loss which Z could carry back to 1979, resulting in an overpayment for that year. Z filed the 1982 tax return late, on November 1, 1983. Z properly filed the claim for refund for overpayment on November 15, 1983.

(a) If the refund is made within 45 days after November 14, 1983, then no interest will accrue on the overpayment.

(b) If the refund is made more than 45 days after November 15, 1983, then interest will accrue from November 1, 1984.

(g) *Refund of income tax caused by carryback of foreign taxes (1) In General.* For purposes of paragraph (a) of this section, any overpayment of tax resulting from a carryback of tax paid or accrued to foreign countries or possessions of the United States shall be deemed not to have been paid or accrued before the filing date (as defined in section 6611(f)(3)) for the taxable year under subtitle F of the Code in which such taxes were in fact paid or accrued.

(2) *Effective date.* Section 301.6611-1(g) applies to interest accruing after October 3, 1982. See 26 CFR 301.6611-1(g) (revised as of April 1, 1982) for rules applicable to interest accruing before October 4, 1982.

(h) *Processible form*—(1) T3 In general. A return is in processible for if—

(i) The return is filed on a form permitted under the Code or regulations (see paragraph (h)(2) of this section), and

(ii) The return contains the required information described in paragraph (h)(3) of this section

(2) *Return on permitted form; components of return.* In applying paragraph (h)(1)(i) of this section, the term "return" includes all components of the return. A component of the return is a required attachment, supporting document, or schedule required by the return, whether or not the information from the document or schedule appears on the return itself. Supporting documents and schedules include, for example, Form W-2, relating to wages; Schedule D, relating to capital gain or loss; Form 3903, relating to moving expenses; Schedule G, relating to income averaging, Form 3468, relating to investment credit; and Form 4625, relating to minimum tax. The term "form permitted under the Code or regulations" includes a substitute form, schedule, or chart containing the same general provisions as the proper form, so long as the taxpayer complies with all revenue procedures relating to substitute forms in effect at that time.

(3) *Information required.* The return must contain—(i) The taxpayer's name, address, identifying number, and authorized signature, and

(ii) Sufficient required information on the return and its components (as defined in paragraph (h)(2) of this section) to permit the mathematical verification of the tax liability as shown on the return.

However, the information required by subdivisions (i) and (ii) is required in the case of a component of the return (within the meaning of paragraph (h)(2) of this section) only to the extent required by that component.

(4) *Examples.* The provisions of paragraph (h) of this section may be illustrated by the following examples:

*Example (1).* A, an individual calendar year taxpayer, filed A's 1982 tax return on the due date, April 15, 1983. The return was properly completed except for A's failure to include schedule D, relating to capital gains or losses, with the filed return. On June 17, 1983, A's schedule D was filed. Because A did not file schedule D until June 17, 1983, there was insufficient information to mathematically

verify the tax liability. Therefore, A's return is treated as filed on June 17, 1983 for purposes of section 6611 (b)(3) and (e).

(2) *Example (2).* B, an individual calendar year taxpayer, filed B's 1982 tax return on the due date, April 15, 1983. The return was completed properly except for B's mathematical error in totaling B's sources of income resulting in an incorrect computation of liability. The error was discovered, and on July 24, 1983, B paid the additional tax. There was sufficient information filed with the return to compute the proper tax liability. Therefore, the return is treated as filed on April 15, 1983.

*Example (3).* Corporation X, a calendar year taxpayer, filed its 1982 tax return on the due date, March 15, 1983. The return was properly completed except that X did not use schedule A for cost of goods sold. However, X did include with the filed return its own schedule of cost of goods sold drafted on a substitute form and containing provisions identical with schedule A as required by the revenue procedures relating to substitute forms in effect at the time. Therefore, the return will be treated as filed on March 15, 1983.

*Example (4).* C, an individual calendar year taxpayer, filed C's 1982 tax return on the due date, April 15, 1983. The return was properly completed except for C's failure to include Schedule A, relating to itemized deductions, with the filed return. Because C's 1040 return reflects C's choice to utilize Schedule A, and C failed to file Schedule A, there was insufficient information for mathematically verifying the tax liability. Therefore, for purposes of section 6611(b)(3) and (e), C's return is not treated as filed. The return will be treated as filed when either Schedule A is filed or an amended return, reflecting C's election not to itemize, is filed.

(5) *Application.* The requirements of section 6611(i) and this paragraph (h), relating to the processible form requirement, apply to sections 6611(b)(3), relating to late returns, 6611(e), relating to income tax refund within 45 days of a return, and 6611(h), relating to the windfall profit tax. See also, paragraph (f)(2)(i)(B) of this section (relating to interest on overpayments relating to certain carrybacks).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84-26558 Filed 10-84; 8:45 am]

BILLING CODE 4830-01-M

## 26 CFR Part 1

[LR-69-84]

### Energy Investment Credit for Leased Qualified Intercity Buses; Public Hearing on Proposed Regulations

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Notice of public hearing on proposed regulations.

**SUMMARY:** This document provides notice of a public hearing on proposed regulations relating to the energy investment credit for qualified intercity buses.

**DATES:** The public hearing will be held on Wednesday, January 9, 1985, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Friday, December 28, 1984.

**ADDRESS:** The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, ATTN: CC:LR:T (LR-69-84), Washington, D.C. 20224.

**FOR FURTHER INFORMATION CONTACT:** B. Faye Easley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, telephone 202-566-3935 (not a toll-free call).

**SUPPLEMENTARY INFORMATION:** The subject of the public hearing is the proposed regulations under section 49 (l) (16) of the Internal Revenue Code of 1954. The proposed regulations appear in this issue of the Federal Register (see FR Doc. 84-26658).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules (26 CFR Part 601) shall apply with respect to the public hearing. Person who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than Friday, December 28, 1984, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By director of the Commissioner of Internal Revenue.

George H. Jelly,  
Director, Legislation and Regulations  
Division.

[FR Doc. 84-26657 Filed 10-5-84; 8:45 am]

BILLING CODE 4830-01-M

## 26 CFR Part 1

[LR-69-84]

### Energy Investment Credit for Leased Qualified Intercity Buses; Proposed Rulemaking

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In the Rules and Regulations portion of this issue of the Federal Register, the Internal Revenue Service is issuing a Treasury decision, adopting final regulations relating to the energy investment credit for qualified intercity buses. This document contains a notice of proposed rulemaking to amend the regulations adopted by that Treasury decision. The amendment would determine the eligibility of a taxpayer for the energy credit when a qualified intercity bus is leased. This action is necessary to provide the public with the guidance needed to comply with the law. A notice of a public hearing concerning this proposed amendment appears elsewhere in this issue of the Federal Register.

**DATES:** The amendment to the regulations is proposed to be effective for the period beginning on January 1, 1980, and ending December 31, 1985. Written comments must be delivered or mailed by December 10, 1984.

**ADDRESS:** Send comments to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-69-84), Washington, D.C. 20224.

**FOR FURTHER INFORMATION CONTACT:** Michel A. Dazé of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T (202-566-3458 (not a toll-free call)).

**SUPPLEMENTARY INFORMATION:**

#### Background

This document contains a proposed amendment to the Income Tax Regulations (26 CFR 1.48-9(q)) under section 48(l)(16) of the Internal Revenue Code of 1954, which have been adopted by Treasury decision and published in the Rules and Regulations portion of this issue of the Federal Register. This amendment is proposed to determine the

eligibility of a taxpayer for the energy credit when a qualified intercity bus has been leased, and is to be issued under the authority contained in Code sections 38(b) (76 Stat. 963, 26 U.S.C. 38(b)) and 7805 (68A Stat. 917, 26 U.S.C. 7805).

Regulations relating to the energy credit for qualified intercity buses were published in proposed form in the Federal Register on September 3, 1982 (47 FR 38918). Under those proposed regulations, the energy credit is allowed for a leased bus if the bus qualifies according to its use by the lessee. If the lessee, but not the lessor, was a regulated common carrier, the lessor could either take the credit itself or pass it through to the lessee under section 48(d).

A question has been raised concerning the propriety of allowing lessors to claim the energy credit when section 48(l)(16) specifically requires that the taxpayer obtaining the credit be a common carrier that is regulated by the Interstate Commerce Commission or an appropriate State agency. In addition, the taxpayer must be engaged in the trade or business of furnishing intercity passenger transportation or intercity charter service by bus. As defined in section 48(l)(16)(B), a bus that qualifies for the energy credit must be used by the taxpayer in such trade or business. The proposed amendment to § 1.48-9(q), therefore, would allow only a common carrier-lessee that uses a qualified bus in its trade or business to claim the energy credit if passed through to it under section 48(d) by the lessor. The proposed amendment would apply only to leasing transactions entered into after October 9, 1984. The allowance of the energy credit to lessors of qualifying buses for any period should not be viewed as precedent for the allowance of the energy credit to lessors of other property when the statute requires that the taxpayer eligible for the credit must operate the qualifying property in a particular trade or business of the taxpayer.

#### Comments and Request for a Public Hearing

Before this proposed amendment is adopted, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held on the date announced in the notice of public hearing appearing elsewhere in this issue of the Federal Register.

#### Executive Order 12291 and Regulatory Flexibility Act

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

#### Drafting Information

The principal author of the proposed amendment to the regulations is Michel A. Dazé of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

#### List of Subjects in 26 CFR Part 1

Income taxes, Tax Liability, Tax Rates, Credits.

#### PART 1—[AMENDED]

#### Proposed Amendments to the Regulations

The proposed amendment to 26 CFR Part 1 is as follows:

Paragraph 1. Section 1.48-9(q)(8) is amended by removing the language "Leased buses. [Reserved]" and adding instead new text as set forth below.

#### § 1.48-9 Definition of energy property.

- \* \* \*
- (q) *Qualified intercity buses*—\* \* \*
- (8) *Leased buses.* (i) A bus which is leased is energy property only if it meets the requirements of paragraph (q)(6) (i), (ii), and (iii) of this section, the lessee is an eligible taxpayer, and the bus meets the predominant use test in the hands of the lessee. If a leased bus in energy property, the energy credit is available only to the lessee unless paragraph (q)(8)(ii) of this section applies. The lessor must elect under section 48(d) for the lessee to claim the energy credit.
- (ii) If a leased bus is energy property and, on or before October 9, 1984, the lessor and lessee enter into a binding contract under which the amount of the lease payments cannot be modified, the energy credit is available to the lessor even if the lessor is not an eligible taxpayer.

(iii) Notwithstanding § 1.47-2(b)(1) (relating to the effect of a disposition by the lessee on the credit claimed by the lessor), if, by reason of a lease or the termination of a lease, a bus is used in a taxable year subsequent to the credit year by a person other than the one whose increase in operating capacity determined the amount of qualified investment for the energy credit, a disposition of the bus under § 1.47-1(h)(2) results. However, if the energy credit for a bus was earned in a taxable year and a lease of the bus which qualifies under section 168(f)(8) (safe-harbor lease) is entered into in a subsequent taxable year, the safe-harbor lease is not a disposition of the bus and the lessee under that lease is treated as the lessee for purposes of this paragraph (q)(8). For the requirement to file an amended return if the energy credit was allowed in a prior taxable year, see § 5c.168(f)(8)-6(b)(2)(ii) (Temporary Income Tax Regulations under the Economic Recovery Tax Act of 1981). For the rule for determining whose operating capacity determines qualified investment for the energy credit, see paragraph (g)(9)(ii) of this section. For the rule for leases to related taxpayers, see paragraph (q)(10)(ii) of this section.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84-28658 Filed 10-5-84; 8:45 am]

BILLING CODE 4830-01-M

#### VETERANS ADMINISTRATION

#### 38 CFR Part 21

#### Veterans Education; Special Restorative Training

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

**SUMMARY:** These proposed regulations are amended to make clear that only eligible children may receive special restorative training as provided by law. The language currently used has caused confusion as to what persons may be eligible for these benefits.

**DATE:** Comments must be received on or before November 8, 1984. It is proposed to make these regulations effective the date of final approval.

**ADDRESSES:** Send written comments to the Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at this address only between the hours of 8 a.m. and 4:30 p.m., Monday through



Friday (except holidays) until November 19, 1984. Anyone visiting Veterans Administration Central Office in Washington, DC for the purpose of inspecting any of these comments will be received by the Central Office Veterans Services Unit in room 132. Visitors to VA field stations will be informed that the records are available for inspection only in Central office and will be furnished the address and room number.

**FOR FURTHER INFORMATION CONTACT:**

June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. (202-389-2092).

**SUPPLEMENTARY INFORMATION:** Sections 21.3330 and 21.3332, Title 38, Code of Federal Regulations, are amended to make clear that only eligible children may receive special restorative training.

The VA (Veterans Administration) has determined that these proposed regulations are not a major rule as that term is defined by Executive Order 12291, entitled "Federal Regulation." The annual effect on the economy will be less than \$100 million. The proposal will not result in any major increases in costs or prices for anyone. It will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs hereby certifies that these proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), these proposed regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because this proposal affects individual benefit recipients. The proposal will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance number for the program affected by these proposed regulations is 64.117.

**List of Subjects in 38 CFR Part 21**

Civil rights, Claims, Education, Grant program—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: September 13, 1984.

By direction of the Administrator.

Everett Alvarez, Jr.,  
Deputy Administrator.

**PART 21—VOCATIONAL REHABILITATION AND EDUCATION**

The Veterans Administration is proposing to amend 38 CFR Part 21 as set forth below:

1. In § 21.3330, paragraph (b) is revised as follows:

**§ 21.3330 Payments.**

\* \* \* \* \*

(b) The Veterans Administration will pay special training allowance only for the period of the eligible child's approved enrollment as certified by the vocational rehabilitation specialist. In no event, however, will the Veterans Administration pay such allowance for any period during which:

(1) The eligible child is not pursuing the prescribed course of special restorative training that has been determined to be full-time training with respect to his or her capabilities.

(2) An educational assistance allowance is paid. (38 U.S.C. 1742)

\* \* \* \* \*

Section 21.3332 is revised to read as follows:

**§ 21.3332 Discontinuance dates.**

The Veterans Administration will discontinue special training allowance as provided in this section on the earliest date of the following:

(a) The ending date of the course.

(b) The ending date of the period of enrollment as certified by the vocational rehabilitation specialist.

(c) The ending date of the period of eligibility.

(d) The expiration of the eligible child's entitlement.

(e) Date of interruption of course as determine by the vocational rehabilitation specialist under § 21.3305.

(f) Date of discontinuance under the applicable provisions of § 21.4135. (38 U.S.C. 1743(b))

[FR Doc. 84-20593 Filed 10-5-84; 8:45 am]

BILLING CODE 8320-01-M

**POSTAL SERVICE**

**39 CFR Part 10**

**Proposed Express Mail International Service To Venezuela**

**AGENCY:** Postal Service.

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to an agreement with the postal administration of Venezuela, the Postal Service proposes to being Express Mail International Service with Venezuela at postage rates indicated in the tables below. The proposed services are scheduled to begin on December 12, 1984.

**DATE:** Comments must be received on or before November 8, 1984.

**ADDRESSES:** Written comments should be directed to the General Manager, Rate Development Division, Office of Rates, Rates and Classification Department, U.S. Postal Service, Washington, DC 20260-5350. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in room 8620, 475 L'Enfant Plaza West S.W., Washington, DC 20260-5350.

**FOR FURTHER INFORMATION CONTACT:** Leon W. Perlinn [202] 245-4414.

**SUPPLEMENTARY INFORMATION:** The International Mail Manual is incorporated by reference in the Code of Federal Regulations, 39 CFR 10.1. Additions to the manual concerning the proposed new service including the rate tables reproduced below, will be made in due course. Accordingly, although 39 U.S.C. 407 does not require advance notice and the opportunity for submission of comments on international service and the provisions of the Administrative Procedure Act regarding proposed rulemaking [5 U.S.C. 553] do not apply [39 U.S.C. 410(a)], the Postal Service invites interested persons to submit written data, views or arguments concerning the proposed Express Mail International Service to Venezuela at the rates indicated in the tables below.

**List of Subjects in 39 CFR Part 10**

Postal Service, Foreign relations.

**VENEZUELA—EXPRESS MAIL INTERNATIONAL SERVICE**

Custom designed service * * up to and including—		On demand service * up to and including—	
Pounds	Rate	Pounds	Rate
1	\$27.00	1	\$19.00
2	29.50	2	21.50
3	32.00	3	24.00
4	35.70	4	27.70



VENEZUELA.—EXPRESS MAIL INTERNATIONAL  
SERVICE—Continued

Custom designed service <sup>1</sup> * up to and including—		On demand service <sup>2</sup> up to and including—	
Pounds	Rate	Pounds	Rate
5.....	38.60	5.....	30.60
5.....	41.50	6.....	33.50
7.....	44.40	7.....	36.40
8.....	47.30	8.....	39.30
9.....	50.20	9.....	42.40
10.....	53.10	10.....	45.10
11.....	56.00	11.....	48.00
12.....	58.90	12.....	50.90
13.....	61.80	13.....	53.80
14.....	64.70	14.....	56.70
15.....	67.60	15.....	59.60
16.....	70.50	16.....	62.50
17.....	73.40	17.....	65.40
18.....	76.30	18.....	68.30
19.....	79.20	19.....	71.20
20.....	82.10	20.....	74.10
21.....	85.00	21.....	77.00
22.....	87.90	22.....	79.90
23.....	90.80	23.....	82.80
24.....	93.70	24.....	85.70
25.....	96.60	25.....	88.60
26.....	99.50	26.....	91.50
27.....	102.40	27.....	94.40
28.....	105.30	28.....	97.30
29.....	108.20	29.....	100.20
30.....	111.10	30.....	103.10
31.....	114.00	31.....	106.00
32.....	116.90	32.....	108.90
33.....	119.80	33.....	111.80
34.....	122.70	34.....	114.70
35.....	125.60	35.....	117.70
36.....	128.50	36.....	120.50
37.....	131.40	37.....	123.40
38.....	134.30	38.....	126.30
39.....	137.20	39.....	129.20
40.....	140.10	40.....	132.10
41.....	143.00	41.....	135.00
42.....	145.90	42.....	137.90
43.....	148.80	43.....	140.80
44.....	151.70	44.....	143.70

<sup>1</sup> Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

<sup>2</sup> Pickup is available under a Service Agreement for an added charge of \$5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

An appropriate amendment to 39 CFR 10.3 to reflect these changes will be published when the final rule is adopted.

(39 U.S.C. 401, 404, 407)

W: Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 84-26604 Filed 10-5-84; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION  
AGENCY

40 CFR Part 52

Approval and Promulgation of  
Implementation Plans; Indiana

[A-5-FRL-2688-3]

AGENCY: U.S. Environmental Protection  
Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: EPA is proposing rulemaking on revisions to the Indiana State Implementation Plan (SIP) for ozone and

carbon monoxide (CO) for Clark, Floyd, Lake, and Porter Counties. EPA proposed on February 3, 1983 to disapprove the original revisions submitted by Indiana for these areas (48 FR 5106). In response to this proposal, Indiana submitted substantive change and additions to their plan for these areas. EPA is proposing these changes and additions for public comment today. DATE: Comments on these revisions and on EPA's proposed action must be received by December 10, 1984.

ADDRESSES: Copies of these proposed SIP revisions and technical analyses of them are available at the following addresses for review. (It is recommended that you telephone Robert B. Miller at (312) 886-6031 before visiting the Region V office.)

U.S. Environmental Protection Agency,  
Region V, Air and Radiation Branch,  
230 South Dearborn Street, Chicago,  
Illinois 60604

Indiana Air Pollution Control Division,  
Indiana State Board of Health, 1330  
West Michigan Street, Indianapolis,  
Indiana 46206

Comments on this proposed rule should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago Illinois 60604.

FOR FURTHER INFORMATION CONTACT:  
Robert B. Miller, Air and Radiation  
Branch (5AR-26), Environmental  
Protection Agency, Chicago, Illinois  
60604, (312) 886-6031.

SUPPLEMENTARY INFORMATION: Under section 107 of the Clean Air Act (CAA), EPA designated certain areas in Indiana as not attaining the National Ambient Air Quality Standards (NAAQS) for CO <sup>1</sup> and ozone. <sup>2</sup> See 40 CFR 81.315. For these areas, Part D of the CAA requires that the State revise its SIP to provide for attaining the primary NAAQS by December 31, 1982. However, an extension until December 31, 1987 was available if a state could demonstrate that, despite the implementation of all reasonably available control measures (RACM), the 1982 attainment deadline could not be met for ozone and/or CO.

<sup>1</sup> The primary NAAQS for CO is violated if, more than once in a year, maximum monitored CO concentrations exceed either: (1) The maximum allowable eight-hour concentration of 10 milligrams per cubic meter of air (mg/m<sup>3</sup>), or (2) the maximum allowable one hour concentration of 40 mg/m<sup>3</sup>.

<sup>2</sup> The ozone NAAQS is violated when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 parts per million (ppm) exceeds one (1.0). This designation must be based on the most recent three years of ozone data. For further details, see 40 CFR Part 50, Appendix H.

States failing to demonstrate attainment by December 31, 1982 were required to commit to implement a vehicle inspection and maintenance (I/M) program no later than December 31, 1982, and to submit a revised ozone/CO SIP by July 1, 1982. The requirements for an approvable SIP are described in a "General Preamble" for Part D rulemakings published at 44 FR 20372 (April 4, 1979), 44 FR 38583 (July 2, 1979), 44 FR 50371 (August 28, 1979), 44 FR 53761 (September 17, 1979), and 44 FR 67182 (November 23, 1979). Additional guidance and the requirements for the development and submittal of the '82 ozone and CO SIPs were given in the January 22, 1981 Federal Register notice (46 FR 7182).

Background of SIP Revision

The State of Indiana submitted, among other items, its 1979 CO/ozone nonattainment area SIP revisions for Clark, Floyd, Lake, and Porter Counties on June 26, 1979, with supplements on May 19, 1980, September 24, 1980, October 9, 1980, and October 15, 1980. The June 26, 1979, submittal included a request that EPA extend the attainment date for the ozone and CO standards in these four counties until December 31, 1987. EPA approved or conditionally approved the various parts of the '79 Part D plan for the four counties on January 2, 1981 (46 FR 36), February 11, 1982 (47 FR 6274), October 27, 1982 (47 FR 47552) and January 18, 1983 (48 FR 2124).

Indiana submitted the draft 1982 revisions of its CO/ozone SIP to EPA on September 2, 1982. This draft revision was used as the basis for State and local public hearings held on October 26-27, 1982. EPA reviewed the revisions and prepared comments which incorporated EPA's evaluation of the overall plan in meeting the requirements of the CAA. These comments were forwarded to Indiana in a November 10, 1982, letter from David Kee, Director of the EPA Region V Air Management Division, to Harry D. Williams, Technical Secretary of the Indiana Air Pollution Control Board. Additionally, EPA proposed on February 3, 1983 (48 FR 5106) to disapprove both the ozone and CO plans because of substantive deficiencies within them. In partial response to this proposal, Indiana submitted on December 2, 1983 the State approved '82 ozone and CO plan revisions. This submittal contained significant changes from the original draft plan, and, therefore, EPA is repropounding action on those parts of the submittal which differ significantly from the original draft plan. Today's proposal

has separate portions concerning: (1) A brief history of Indiana's 1982 ozone SIP, (2) the ozone attainment demonstration in the Indiana portion of the greater Louisville metropolitan area (Floyd and Clark Counties), (3) the ozone attainment demonstrations in the Northwest Indiana portion of the greater Chicago metropolitan area (Lake and Porter Counties), (4) the carbon monoxide plan for the designated nonattainment area in Lake County, (5) the I/M portions of the plans, which encompass both pollutants and areas, and (6) the transportation control measures (TCM), which also encompasses both pollutants and both areas.

#### History of the Indiana "1982" Ozone SIP

Ozone is formed from the chemical reaction of various precursors—primarily reactive volatile organic compounds (VOCs) and the oxides of nitrogen. EPA requires the control of VOC emissions in order to reduce ozone concentrations.

Indiana's ozone nonattainment areas consist of Clark, Elkhart, Floyd, Lake, Porter, and St. Joseph Counties. See 40 CFR 81.315 (1983) and 49 FR 13352 (April 4, 1984). Of these, extensions were only requested for Clark and Floyd Counties, which contain the Indiana portion of the Louisville (Kentucky-Indiana) Urbanized Area,<sup>3</sup> and Lake and Porter Counties, which contain the Indiana portion of the Chicago, Illinois-Northwestern Indiana Urbanized Area.

Indiana's September 2, 1982 draft '82 ozone SIP submittal addressed VOC emission reductions for the four extension counties through a mix of controls on stationary and mobile sources. It addressed attainment of the NAAQS in the Louisville area and in Northwest Indiana and Northeast Illinois, but not in Southeast Wisconsin. Finally, it included contingency measures to be added to the SIP if monitoring in Indiana shows the standards are still being violated in 1985.

EPA proposed to disapprove the draft September 2, 1982 strategy on February 3, 1983 because:<sup>4</sup>

<sup>3</sup>Urbanized areas are defined by the Bureau of the Census. They consist of a central city, or cities, and surrounding closely settled territory.

<sup>4</sup>EPA proposed rulemaking on a draft regulation, rather than wait for a final, because the State had not met the July 1982 statutory deadline contained in the Clean Air Act Amendments of 1977. EPA believed to delay proposal at that time on a clearly disapprovable plan would needlessly delay remedial actions that could be taken to ultimately assure the attainment and maintenance of the NAAQS.

(1) The plan did not contain enforceable commitments either to adopt Reasonably Available Control Technology (RACT) for Group III Control Technique Guideline (CTG) sources or to adopt RACT emission limits for all other major VOC sources.

(2) The Indiana Air Pollution Control Board (IAPCB) had withdrawn its commitment to implement an I/M program.

(3) The projected emission reductions predicted to occur in Lake and Porter Counties, when combined with those predicted to occur in Illinois, were not sufficient to assure the attainment of the ozone standard in Wisconsin. The plan, therefore, did not meet the requirements of section 110(a)(2)(E) of the CAA.

(4) Indiana developed a contingency plan which included RACT on all major sources which presently do not have such control requirements, stage II vapor recovery control for gasoline stations, and a vehicle I/M program. The plan provided that these measures would be implemented in either or both Northwest Indiana or Clark and Floyd Counties only if 1985 analyses of air quality in these areas show that these measures are needed to attain the standard by 1987. Indiana's contingency approach deviated from the CAA and EPA's approval criteria in that, in relying on contingency measures to achieve necessary emission reductions, the plan did not contain an enforceable strategy for assuring that the standards would be attained as expeditiously as practicable.

In addition to the above deviations, Indiana's 1982 plan deviated in a variety of other respects from EPA's guidance and the requirements of the CAA. These deviations are detailed in EPA's November 10, 1982 comments on the Indiana SIP and in EPA's November 19, 1982 technical support memorandum to the February 3, 1983 proposal. These comments cover deviations from guidance on area, mobile, and point source emissions inventories, ozone modeling and air quality data, stationary source measures, vehicle inspection and maintenance, and transportation control measures. The comments on the various portions of the emissions inventory or facets of the inventory which are not documented enough to be suitably evaluated.

Examples of such comments are:

(1) The plan did not document the major VOC point sources for Lake and Porter Counties.

(2) The plan did not document the modeling for the Louisville Urbanized Area such that it could be evaluated by EPA.

(3) The plan did not include evidence of commitments by the implementing agencies to implement the specified TCM measures.

EPA stated in its February 3, 1983 proposal that any one of these deviations cited in the comment letter might not be considered major in and of itself. However, all of the deviations considered together may constitute a major deficiency. Therefore, EPA requested the State's response to these deviations and stated that it would evaluate any response to determine if the State had corrected the deviations. In the February 3, 1983 proposal, EPA also specifically solicited public comment on the significance of any or all of the deviations from EPA policy cited in the November 10, 1982 comment letter to the State.

In response to the February 3, 1983 proposal on Indiana's draft plan, EPA did receive comments from various groups, including the State of Indiana.

EPA will respond to these comments at the time of its final rulemaking on the Indiana '82 ozone and CO SIP to the extent that comments received on the draft proposal are not reiterated in connection with this proposal but are still relevant to EPA's final action.

Indiana commented on the proposal on May 2, 1983, and agreed to make certain changes in its plan. On December 2, 1983, Indiana submitted its '82 ozone plan as finally adopted by the State. This submittal differed significantly from the draft on which EPA's February 3, 1983 proposal was based and is the subject of today's proposed rulemaking. Changes included:

(1) Indiana did commit to adopt RACT for group III CTG sources within 1 year from the January following the date EPA issues a CTG for that source. It additionally committed to adopt RACT emission limits for all other major VOC sources within 1 year from the January following the date that RACT emission levels have been determined by a contractor for those sources. This commitment is being proposed for approval, because it meets the requirements contained in EPA's January 22, 1981 Federal Register notice which gave the States guidance for the development of approvable '82 ozone and CO SIPs. [EPA notes that regulations for one RACT III source category (large petroleum drycleaners) was due on January 1, 1984, but has yet to be submitted.]

(2) Indiana renewed its commitment to adopt and implement its I/M program. On December 22, 1983, Governor Orr of Indiana notified EPA that inspections would begin and indeed they did begin

on May 31, 1984. On January 4, 1984, Indiana submitted its revised I/M regulation. On March 28, 1984, Indiana notified EPA that the Indiana State Legislature had clarified the authority for local enforcement of State air regulations, including I/M regulations.

(3) Indiana's December 2, 1983 submittal for Lake and Porter Counties still addressed attainment and maintenance of the NAAQS in Indiana only. However, on March 2, 1984, Indiana committed itself to adopt the attainment demonstration submitted by the State of Illinois for the tri-state area (Wisconsin, Illinois, and Indiana) as its own in place of the demonstration it had submitted. The Illinois' attainment demonstration indicates that emissions reductions from Indiana and Illinois<sup>5</sup> will be sufficient to assure attainment and maintenance of the NAAQS in Wisconsin, as well as in Illinois and Indiana.

Therefore, provided that Indiana does indeed ultimately submit the Illinois strategy as its own, EPA is proposing today to approve the Illinois attainment demonstration for Indiana. If Indiana does not adopt Illinois' strategy, EPA is proposing to disapprove Indiana's presently submitted strategy, because it does not provide for attainment of the ozone NAAQS in Wisconsin. See section 110(a)(2)(E).

(4) Indiana's plan still includes a contingency plan to be used if annual reviews of the actual ambient ozone levels show that the NAAQS will not be attained by 1987. The one measure contained in it, Stage II vapor recovery for service station operations, is not required by the July 22, 1981, Federal Register notice to be a part of the 1982 ozone SIPs where attainment is assured without it. Because EPA has determined that the Illinois' bi-state strategy is adequate to achieve the NAAQS in the tri-state area, this contingency plan is an additional measure not required to meet the requirements of section 110(a)(2). EPA, therefore, is able to approve this additional measure even as a contingency and is proposing to do so today.

#### Floyd and Clark Counties Attainment Demonstration

Indiana's December 2, 1983, SIP submittal was designed to demonstrate attainment of the ozone NAAQS in the greater Louisville area. This nonattainment area is comprised of Clark and Floyd Counties, Indiana and Jefferson County, Kentucky. The State of

Kentucky has submitted a separate but complementary plan dealing with VOC emission control commitments for Jefferson County. On February 8, 1984 (49 FR 4792), EPA proposed to approve the Kentucky portion of the greater Louisville attainment demonstration.

The ozone demonstration of attainment contained in Indiana's SIP submittal was properly documented and was developed by the Kentuckiana Regional Planning and Development Agency. The VOC emission control requirement for the area was derived from the 1980 and 1981 monitoring data at Charlestown, Indiana, which had the highest ozone standard exceedances. Based on this data and EKMA modeling, it was determined that a 32.5% reduction from 1980 VOC emission levels is needed in the greater Louisville area in order to assure attainment of the ozone NAAQS.

Indiana's portion of the strategy assumes the implementation of an I/M program, three TCM's, the adoption of RACT for Group III CTG sources, and the adoption of RACT for major non-CTG sources in the area. Indiana estimates that these controls will reduce emissions in 1987 by 40.5% from the 1980 base year levels in Floyd and Clark Counties. These reductions, if obtained, would contribute to an overall emission reduction in all three counties of above 32.5% and would assure the attainment of the NAAQS in the greater Louisville area.

However, although Indiana committed itself to implement the above controls, its commitment did not extend to obtaining the estimated 40.5% emission reductions per se. Preliminary data from an EPA sponsored study indicate that some of the emission reductions claimed by Indiana from stationary source emission controls on RACT III sources, whiskey warehouses, and other major non-CTG sources are overly optimistic. If this is in fact correct, then the emission reductions actually obtained by Indiana will not be sufficient to assure the attainment of the NAAQS.<sup>6</sup>

Therefore, EPA today is proposing approval of Indiana's ozone plan for Clark and Floyd Counties, if Indiana submits during the public comment period of this proposed rulemaking enforceable commitments either: (1) To achieve the VOC emission reductions it has claimed for RACT III and major non-CTG sources, or (2) to achieve at least a 32.5% reduction of VOC emissions compared to Indiana's 1980

emission levels. (If Indiana chooses the second scenario, it still must meet its prior commitment to adopt RACT emission levels for all sources.) An approvable, enforceable commitment would be one made by the Governor or one adopted by the Indiana Air Pollution Control Board. If the contractor's final report indicates that a 32.5% reduction can indeed be achieved and maintained, then the committed emission reductions must be obtained from the RACT III and major non-CTG source categories noted above. Alternatively, if the report indicates that a 32.5% reduction cannot be obtained using the above source categories, then additional emission reductions can be obtained from other source categories such as Stage II vapor recovery, architectural surface coatings, open burning, and enforceable, permanent source closures.

If the State elects to achieve equivalent emission reductions from sources other than those identified as RACT III or major non-CTG sources in the SIP submittal, it must also commit itself to an expeditious schedule for the adoption, implementation, and submittal of these reductions. An approvable schedule would be to adopt these alternative regulations on the same schedule as that set for regulations on major non-CTG sources. For discussions of the requirements for plans that do not assure attainment by 1987, despite the implementation of all RACT, RACM, and I/M, see Section I(F) of the '82 ozone and CO policy statement in the January 22, 1981 Federal Register and Item 1 in Chapter V of EPA's January 27, 1984 "Guidance Document for Correction of Part D SIP's for Nonattainment Areas".

If Indiana fails to submit the required emission reduction commitments, EPA is proposing to disapprove the Indiana portion of the greater Louisville plan, because the best information currently available to the EPA shows that the emission reductions obtainable by Indiana from the strategies to which it committed will be insufficient to assure attainment of the ozone NAAQS.<sup>7</sup>

<sup>7</sup>EPA proposed to approve the Kentucky portion of the Louisville ozone SIP because Kentucky committed to obtain emission reductions of at least 32.5% and because attainment of the NAAQS is assured if Indiana obtains the emission reductions it has claimed. If Indiana cannot obtain sufficient emission reductions, then the greater Louisville ozone strategy will be deficient. Under these circumstances, EPA may approve the Kentucky portion of the plan, because Kentucky has met its commitments to supply its portion of the 32.5% emission reduction required; but the Indiana portion of the plan must be disapproved, because Indiana has not sufficiently reduced its share of the emissions.

<sup>5</sup>In actuality Wisconsin sources will also be reducing their emissions, but this fact is not pertinent to Illinois' attainment demonstration.

<sup>6</sup>Based on the preliminary data from the contractor's report, EPA estimates that Indiana may with its present plan only be able to achieve a 23% reduction in its 1980 emissions by 1987 compared to the 32.5% needed.

Alternatively, if Indiana does so commit, EPA is proposing to approve the plan because the emission reductions to which Indiana will have committed will be sufficient to assure the attainment and maintenance of the NAAQS.

Some minor problems with the attainment demonstration are discussed in EPA's "Technical Review of Indiana's 1982 Ozone State Implementation Plan for Clark and Floyd Counties", which is available at the addresses listed in the front of today's notice. EPA is also soliciting comments on the additional issues raised in its "Technical Review".

#### Lake and Porter Counties Ozone Attainment Demonstration

The ozone attainment demonstration for Northwest Indiana, as included in Indiana's December 2, 1983 SIP submittal, does not substantially differ from the attainment demonstration in its draft SIP submittal which EPA proposed to disapprove on February 3, 1983. The December 2, 1983, submittal states that a 28% reduction in VOC emissions in Northwest Indiana is needed relative to 1980 emission levels in order to assure the NAAQS there. The submittal predicts that emissions will be reduced in 1987 by 35% relative to 1980 emission levels<sup>9</sup> and concludes that attainment of the ozone NAAQS in Northwest Indiana is assured.

The submittal, however, makes no attempt to demonstrate attainment in Southeast Wisconsin. It instead attempts to demonstrate that Northwest Indiana emissions do not contribute to high ozone concentrations in Southeast Wisconsin. EPA does not agree, however, that emissions from Indiana have no effect on Southeast Wisconsin. Because the December 2, 1983 submittal does not demonstrate attainment in all impact areas and, therefore, does not meet the requirements of section 110(a)(2)(E) of CAA, EPA must propose it for disapproval.

In addition to the SIP submittals from Indiana, EPA has received data from Illinois concerning the emission reductions needed in the greater Chicago area (which includes Lake and Porter Counties, Indiana) to attain the ozone NAAQS in Southeast Wisconsin. In submittals of December 23, 1983, and January 20, 1984, Illinois has provided an updated analysis of the emission reductions which are required and those

predicted to be obtained.<sup>9</sup> EPA has reviewed the Illinois submittals and agrees with Illinois' conclusion that emissions in the greater Chicago area must be reduced by 47% relative to 1979 emission levels in order to achieve attainment.

Indiana's SIP submittal, including data submitted on January 9, 1984, indicates that emissions will be reduced in 1987 by 39% relative to 1979's emissions. Thus, the percentage reduction in emissions predicted to occur in Northwest Indiana is less than the Illinois' modeling predicts to be required for the bi-state area. However, given the regional nature of ozone, this modeled control percentage is properly viewed as a metropolitan area control requirement, irrespective of the reduction percentage achieved in any one part of the metropolitan area.

Illinois' revised analysis shows emissions in Northeast Illinois decreasing by over 50% relative to 1979 levels.<sup>10</sup> Because of the greater quantity of VOC emissions in Northeast Illinois relative to Northwest Indiana (1979 emissions of  $12.5 \times 10^5$  kilograms/day vs.  $1.45 \times 10^5$  kilograms/day respectively), the combination of the 49% emission reduction to be obtained in Illinois and the 39% in Indiana will reduce total emissions in the bi-state area by 48% relative to 1979 levels. Thus, the Chicago-Northwest Indiana area should achieve the 47% emission reduction necessary to assure the attainment and maintenance of the ozone NAAQS.

In light of the Illinois data, Indiana withdrew its own attainment demonstration and committed itself on March 2, 1984 to adopt the Illinois demonstration by reference. Based on this commitment, EPA today, through its parallel processing procedure, is proposing to approve as Indiana's demonstration of attainment, the attainment demonstration developed by Illinois for the greater Chicago area. If Indiana does not adopt the Illinois attainment demonstration, or an equally

<sup>9</sup> Illinois' analysis assumes that both Indiana and Illinois have adopted or will adopt VOC RACT regulations for Groups I, II, and III CTGs; VOC RACT regulations for major non-CTG sources; appropriate transportation control measures; and I/M programs. The plan also assumes that Illinois filling stations will be required to install and use Stage II vapor recovery controls. The analysis adequately addresses the section 172(b)(3) requirement for "reasonable further progress" in Illinois towards attainment of the ozone NAAQS. Illinois' plan is based on a 1979 base year, as opposed to Indiana's plan which is based on a 1980 base year.

<sup>10</sup> EPA estimates that the Illinois plan will provide a 49% emission reduction as opposed to the 50% claimed. See EPA's "Review of Recent Illinois SIP Submittals".

approvable one, EPA is proposing today to disapprove the strategy which Indiana submitted on December 2, 1983, because it does not provide for the attainment of the ozone NAAQS in Southeast Wisconsin and, therefore, does not comport with the SIP approval requirements of section 110(a)(2)(E) of the CAA.

The strategy submitted by Illinois only addresses the CAA's "reasonable further progress" (RFP) requirement as it applies to Illinois. Indiana must address RFP as it applies to Indiana in its revised attainment demonstration submittal. This should include emission summaries for each year between 1980 and 1987, which show that RFP toward attainment will occur in these interim years.

Additionally, the 35% reduction from 1980 emissions predicted to occur in Northwest Indiana and, more importantly considering the regional nature of the ozone problem, the 44% reduction predicted to occur between 1980 and 1987 in the greater Chicago area will be sufficient to assure the attainment of the NAAQS in Northwest Indiana (as well as in Southeast Wisconsin and Northeast Illinois). Finally, although not in a readily usable format, Indiana did submit an approvable emission inventory for Lake and Porter Counties which corrects a deficiency noted in the technical support memorandum for our February 3, 1983 proposed disapproval.

#### Carbon Monoxide Attainment Demonstration for Lake County

On March 3, 1978, EPA designated a small portion of Lake County surrounding an ambient monitor at 900 E. Chicago Avenue as nonattainment for the pollutant CO. This monitor was located at the East Chicago local air agency. In 1980, the East Chicago agency moved to new quarters and, consequently, the CO monitor was moved to a new location at 4818 Indianapolis Boulevard; outside of the designated nonattainment area.

In response to USEPA's March 3, 1979 nonattainment designation, Indiana submitted its 1979 CO plan on June 26, 1979, with supplements on May 19, 1980; September 24, 1980; October 9, 1980; and October 15, 1980. The June 26, 1979, SIP submittal requested the EPA to extend the attainment date for CO in Lake County to December 31, 1987. EPA approved this attainment date extension and approved the SIP as meeting the 1979 requirements of Part D of the CAA and other EPA SIP requirements for CO in the February 11, 1982 Federal Register (47 FR 6274).

<sup>9</sup> Although there appear to be errors in the underlying emissions inventories, these errors approximately cancel out. See EPA's technical review of the "Indiana Ozone SIP for Northwest Indiana" for further details on these errors and their practical effect.

Indiana submitted a draft 1982 SIP revision for CO on September 2, 1982. Monitoring data from Lake County in this submittal showed attainment of the standards in 1978 and 1979 at the E. Chicago Avenue monitor, the most recent monitoring data within the nonattainment area. However, the relocated monitor, now located in a designated attainment area at 4818 Indianapolis Boulevard, recorded violations in 1981.

The draft SIP submitted by Indiana used a rollback analysis and data from the Indianapolis Boulevard monitoring site to determine that a 10% reduction in CO emissions from the 1980 base year level would be needed to attain the CO standards. The draft SIP predicted that a 42% reduction in CO emissions will occur by December 31, 1987, in Lake County as a result of the continued implementation of the Federal Motor Vehicle Control Program (FMVCP). An additional 4% emission reduction was expected to result from the implementation of committed transportation Control Measures (TCMs). The draft plan, therefore, demonstrated attainment at the Indianapolis Boulevard monitoring site, where violations were most recently recorded.

However, as part of the Indiana SIP development procedures, the Northwest Indiana Regional Planning Commission (NIRPC) performed a modeling analysis which indicated continued violations of the CO NAAQS past 1987 at approximately 30 locations in Lake County. (There are no ambient monitors situated at these locations.) The analysis was referenced, but not submitted, in Indiana's September 2, 1982 draft SIP submittal. In its draft submittal the State did not address attainment of the standards at these locations.

EPA reviewed Indiana's draft revisions and prepared comments on these revisions with regards to their compliance with the 1982 CO SIP revision preparation requirements. These comments were forwarded to Indiana in a November 10, 1982 letter. On February 3, 1983 (48 FR 5106), EPA proposed to disapprove the draft 1982 CO SIP for Indiana, because it did not demonstrate attainment of the CO NAAQS by December 31, 1987 for all locations in Lake County and because it withdrew the State's commitment to implement an I/M program.

On December 2, 1983, the State of Indiana submitted its final State approved version of the 1982 SIP. The revised plan again did not address attainment of the NAAQS in the designated nonattainment area. It

differed from the draft plan in that it did not include the rollback analysis for the Indianapolis Boulevard monitoring site, where violations were recorded in 1981. The State did address the NIRPC modeled nonattainment locations, by assuming that the receptor sites previously considered were too close to roadways. The use of more distant receptors resulted in lower predicted CO concentrations and the elimination of post-1987 violations. Also, the State did a more detailed analysis of 5 sites near I-80/I-94 where the NIRPC modeling predicted high CO levels.

The December 2, 1983 submittal did renew Indiana's commitment to I/M. The transportation control portion of this plan for Lake County contains five transportation measures to be implemented to obtain emissions reduction goals. Although these TCMs were included for CO control in Lake County, their emissions impacts were neither discussed nor included in the attainment demonstration in the final SIP submittal. The State did commit itself, however, to annually review the transportation improvement projects for their emissions impact.

The FMVCP is expected to reduce Lake County mobile source CO emissions by 45% between 1980 and 1987. The I/M program, which was not included in the September 2, 1982 draft submittal, is expected to reduce mobile source CO emissions an additional 13.3% in Lake County between 1980 and 1987.

EPA has reviewed Indiana's most recent SIP submittal. First, EPA does not agree with the modeling assumptions made by Indiana in its modeling analyses, including the analysis of CO levels near I-80/I-94. The State did not submit documentation of the "hotspot" modeling results which were discussed in the State's September 2, 1982, draft CO plan and in its December 2, 1983 final CO plan submittal. Without this documentation, it is impossible for USEPA to ascertain the quality of the modeling results and to assure that the post-1987 predicted exceedances of the 8-hour CO standard included in the draft plan will not actually occur. USEPA is requesting the State of Indiana to submit documentation of the modeling analysis. After this documentation is reviewed, USEPA will make a determination of the necessity for revisions to Indiana's SIP concerning this issue.

Notwithstanding the above, the modeled areas are not within the designated nonattainment area and, therefore, USEPA is not proposing today to disapprove Indiana's present CO Part D plan based on these possible

violations. Similarly, Indiana's failure to adequately address attainment of the NAAQS at the Indianapolis Boulevard monitor, site of the 1981 recorded violations, is not being addressed today because it also is not within the nonattainment area. EPA may, however, address the apparent nonattainment of the CO NAAQS at these areas in either a future Federal Register notice proposing to designate these areas nonattainment, if the State so requests, or in a section 110(a)(2)(H) notice of SIP deficiency.

EPA is proposing to approve the strategy for the designated nonattainment area in Lake County because, using currently available data and techniques, the strategy developed would require the addition of no new controls. USEPA recommends that a strategy, using rollback, for an area be based on the most recent two years of ambient data. In the case of the Lake County nonattainment area, the most recent data are from 1978 and 1979 and shows no violations of the CO standards recorded in the designated nonattainment area. Therefore, the design value for this area would be below the standard and no new controls would be required. Additionally, Indiana has submitted a plan which should provide over a 50% reduction by 1987 from CO levels emitted in or near this area in 1980. This reduction, combined with no recorded violations, should assure attainment and maintenance of the NAAQS in the designated nonattainment portion of Lake County, and, therefore, EPA is proposing to approve the plan.

#### Inspection and Maintenance Program

In Indiana's 1979 SIP submission, it demonstrated that attainment of the ozone NAAQS by December 31, 1982 was not possible in Lake, Porter, Floyd, and Clark Counties nor of the carbon monoxide NAAQS by December 31, 1982 in Lake County. Therefore, it requested an extension of the attainment deadline to December 31, 1987. The EPA approved this request on February 11, 1982. Under these circumstances, section 172(b)(11)(B) of the CAA requires Indiana to implement an I/M program in these areas. Indiana did commit to implement an I/M program, and EPA conditionally approved this commitment on January 2, 1981.

The IAPCB sent a draft of its 1982 ozone and OC SIP submittal to EPA September 2, 1982. This draft proposed to rescind Indiana's commitment to an I/M program. (Shortly thereafter, however, Governor Orr reaffirmed the



State's commitment to implement an I/M program.) Because EPA only had the IAPCB's plan to act on, EPA proposed to disapprove the I/M portion of the draft SIP submittal in the February 3, 1983 Federal Register (48 FR 5109). This proposed rulemaking cited several SIP disapprovability issues and noted that other technical deficiencies were cited in EPA's November 10, 1982 comments to the State on the IAPCB's draft proposal and in EPA's November 19, 1982 technical support memorandum entitled "Technical Review of Indiana Draft 1982 Ozone and Carbon Monoxide Implementation Plan".

On December 2, 1983, the IAPCB submitted its final 1982 plan for Lake, Porter, Clark, and Floyd Counties. This plan committed the State to implement an I/M program which was designed to start on January 1, 1984. It included an IAPCB approved copy of Indiana's draft revised I/M regulation, 325 IAC 13-1.1, Motor Vehicle Inspection and Maintenance Requirements. Governor Orr notified EPA on December 22, 1983, that inspections would begin on May 31, 1984. 325 IAC 13-1.1 was promulgated by Indiana on December 28, 1983 and was submitted as a revision to the SIP on January 4, 1984. On March 28, 1984, Indiana notified EPA that the Indiana State Legislature had added violations of Indiana air rules, including I/M regulations, to the list of Class C infractions which can be enforced by local law enforcement officers. In a July 28, 1983 letter, Indiana had previously provided EPA with guidance on how such a change under Indiana law should give local law officials that authority to enforce IAPCB rules. Indiana started testing vehicles on May 31, 1984, and the full program began on June 4, 1984.

Indiana is proposing to use a dual enforcement mechanism for violations on the I/M program requirements. The first mechanism, which was not adopted by the IAPCB as of September 1984, is the use of a computerized system to match vehicle registration information with data on actual vehicle testing to determine compliance. Persons who have failed to have their vehicles tested will be sent a warning letter which requires vehicle testing within 30 days of the receipt thereof. If the violator fails to have the vehicle tested, a Notice of Violation, Prehearing Conference and Hearing is to be issued and a hearing officer appointed. Penalties are to be established pursuant to Indiana Code (IC) 13-7-13-1(a), Civil Penalties, which provides for a maximum penalty of up to \$25,000 a day.

The second enforcement mechanism is the identification (through a

windshield sticker) and prosecution of violators by local enforcement officials. On March 2, 1984, Indiana amended IC 13-1-1-9 to make it a Class C infraction to refuse to comply with an order or rule of the Indiana Air Pollution Control Board, including the I/M regulations. Additionally, IC-34-4-32 provides an enforcement mechanism for Class C infractions and provides for civil penalties of up to \$500. The IAPCB has indicated in a letter dated March 28, 1984, that it is working with the State Attorney General, prosecutors, and local law enforcement officials to finalize all details involved in its sticker enforcement program. EPA is requiring that a detailed description of this enforcement mechanism be submitted to EPA during the public comment period.

Indiana is implementing a centralized I/M program operated by the Indiana Vocational Technical College. Testing will be performed at one location in the Clark and Floyd Counties area and five locations in the Lake and Porter Counties area. In addition, there are two mobile testing vans for Lake and Porter Counties and one mobile testing van for Clark and Floyd Counties. Trucks of less than 10,000 pounds and all cars (excluding diesel) must be tested biennially, unless they are more than 12 years old. There will be no charge to vehicle owners for testing their vehicles. Additionally, tune-ups and repairs for cars that fail the initial test are limited to \$50.00 for parts, if the owner elects to make his own repairs, or \$100.00 for parts and labor, if the owner has someone else make the repairs. Using 1980 emission levels as a base, Indiana expects its I/M program to result in a 2.2% reduction in total VOC emissions in Lake and Porter Counties; a 2.8% VOC reduction in Clark and Floyd Counties; and a 13.3% reduction of CO emissions in Lake County.

Although Indiana has committed to the implementation of a vehicle I/M program, it did not implement this program in conformance with the schedule originally committed to and approved by EPA. However, considering that Indiana's I/M plan has been implemented prior to the time EPA could take final rulemaking action on the plan, EPA does not consider this late implementation date a reason for disapproving the plan at this time.

Additionally, section 172(b)(7) of the Clean Air Act requires the SIP to identify and commit the financial and manpower resources to carry out the plan provisions. Indiana's legislature appropriated funds for the first two years of program, through 1985. EPA recognizes that Indiana law limits

contracts to two years and that legislative appropriation for the I/M program also cannot extend beyond two years. On July 28, 1983, Dr. Ronald G. Blandenbaker, State Board of Health Commissioner, committed to seek additional funding in the 1985 General Assembly for continued operation of the I/M program. EPA proposes to accept the commitment as satisfying the requirements of the Act.

However, if the Indiana legislature fails to appropriate adequate funds to continue implementation of the I/M program, as committed to in the SIP, and no other source of funding is available, it seems likely that the program would have to be discontinued. If this were to occur, EPA would at that time take appropriate corrective action under the Act.

Still, two major and several minor deficiencies currently exist which must be corrected prior to EPA being able to give final approval to Indiana's I/M plan. The two deficiencies are:

1. The State has not submitted for approval as a part of its SIP a detailed description of the enforcement mechanisms it intends to use in enforcing its I/M program and the resources, including manpower and funds, it will use in implementing its enforcement. This must be submitted. For the first mechanism, it needs to include the frequency of matching vehicle registration and emissions testing data (EPA recommends that this be done at least once every 30 days); the timeframe for issuing warning letters and notices of violation; a description of the administrative hearing process, including identification of the specific agency(s) which will administer the hearing process; penalties which will be assessed; and methods of assuring final compliance of the vehicle(s) with the I/M program and requirements. (At the IAPCB July 11, meeting, the Board considered an administered hearing process which included specific fines, the suspension of the current registration for vehicles which have not complied with the Indiana I/M program, and the denial of renewal of registration until these vehicles have complied. If the State ultimately adopts this or a substantially identical administrative hearing process and submits it as a portion of the SIP, with evidence of supporting legal authority, then this portion of the enforcement mechanism would be approvable.)

The description of the second mechanism needs to include an identification of the specific local law enforcement agencies involved, including a description from the

agencies involved of how each plans to enforce their portion of the program; how subject vehicles will be identified; how violators are to be detected, i.e., routine patrol surveillance, roadside checks, parking lot surveys, etc.; where and how violators are to be prosecuted; and how the State plans to monitor compliance (once the penalty is paid) to ensure that the vehicle meets the inspection requirements. This process should be as routine and expeditious as that followed for expired license plate violations.

2. The I/M submittal does not contain demonstrations that Indiana's I/M program, as implemented, meets the requirements of RACT. Using MOBILEII, a RACT demonstration must show that the State's I/M program will achieve a total emission reduction equivalent to a 33% reduction in 1987 CO emissions and a 25% reduction in 1987 hydrocarbon emissions from the light duty vehicle emissions inventory, relative to what the 1987 emission inventory for light duty vehicles would be without I/M. However, if vehicles other than light duty vehicles are included in an I/M program, they can generate emission reduction which can contribute to the 25%/33% reduction requirement for the light duty class. Indiana's submittal demonstrates that the required emission reductions in Lake and Porter Counties would have occurred if the program would have been implemented by January 1, 1984. However, the program was not completely implemented until June 1984. Because the amount of control obtained by December 31, 1987 is dependent upon the actual start-up date of the program, Indiana's new start-up date must be taken into consideration in making the RACT calculations. Indiana must submit revised calculation, with complete documentation, showing that its I/M program will provide a RACT level of control. If the amount of control differs from that originally predicted, Indiana must revise its attainment demonstrations for the four counties accordingly.

Additionally, the SIP submittal states that Indiana's program will have a stringency factor of approximately 30%. In order to achieve the required reduction in emissions to which the State has committed itself and needs, the stringency factor of Indiana's I/M program must be set at 30% or greater. The State must commit itself to this.

The minor deficiencies are:

1. Indiana incorporated by reference in its I/M program Subpart W of 40 CFR Part 85, "Emission Control System Performance Warranty Short Tests". This Subpart has been updated in the past and it is anticipated that it may be

updated in the future. Therefore, Indiana must specify the date of the version of Subpart W, e.g., June 12, 1984, 49 FR 24320 or the *Code of Federal Regulations* publication year, it is incorporating by reference into its plan. Additionally, Indiana should commit to incorporate future revisions to this subpart as they are made.

2. The Indiana I/M program takes credit for achieving, through the use of a two speed idle test, a 70% identification rate for 1981 and later vehicles which violate the emission standards. 325 IAC 13-1.1-5(h) itself, however, only requires testing to be performed in accordance with 40 CFR Part 85. 40 CFR Part 85 currently contains six possible tests, not all of which would satisfy this 70% requirement. Either the reference in section 5(h) should be amended to specify which test within the Federal regulations Indiana is using or Indiana should commit itself to using a specific test method. EPA recommends Indiana use the Engine Restart 2500 rpm/Idle Test (to be codified as 40 CFR 85.2210), because it will ensure that all 1981 and later Indiana cars tested under it will be covered by the warranty provisions of section 207(b) of the CAA and will achieve the 70% identification rate for 1981 and later vehicles.

3. 325 IAC 13-1.1-12 requires testing equipment to be calibrated in accordance with 40 CFR Part 85, Subpart W. Indiana should confirm that it is specifically referencing in this general reference the calibration and adjustment requirements of 40 CFR Part 85.2217 (1983) or, instead, the updated version published on June 12, 1984 (49 FR 24320).

A comprehensive discussion of these issues can be found in EPA's September 26, 1983 letter (including attachments) to the State and in a January 23, 1984 memorandum from Jane Armstrong, Project Manager of EPA's I/M Technical Support Staff.

If Indiana provides during the public comment period: (1) An approvable, detailed description of its enforcement mechanisms (including a description from each of the appropriate State, county, and local officials of how they will enforce their portions of the program), (2) a detailed discussion of the resources it will use to implement its enforcement program, (3) an analysis which shows its I/M plan meets the requirements of RACT, and (4) a commitment to rectify the remaining deficiencies listed above within a specified period of time (not to exceed one year from date of EPA final rulemaking), EPA will approve Indiana's I/M program, including 325 IAC 13-1.1, as meeting the requirements of Part D of

the CAA.<sup>11</sup> EPA will not give final approval to the I/M plan until the above requirements are met.

#### Transportation Control Plans

The 1982 transportation control plan for Lake and Porter Counties describes five transportation measures which will be implemented. These measures are: speed limit review, placing some traffic signals at lightly traveled intersections on flash, removing unwarranted stop signs, carpooling, and vanpooling. For Floyd and Clark Counties, the plan consists of ridesharing and transit improvements. The plans for all four counties commit to annually reviewing implemented transportation improvement projects for their emission impacts. Section 176(c) of the CAA requires metropolitan planning organizations (MPO) to disapprove any project which does not conform with the approved SIP. EPA approved the commitments from the Clark and Floyd Counties' MPO (Kentuckiana Regional Planning and Development Agency) and the Lake and Porter Counties' MPO (Northwest Indiana Regional Planning Commission) in this matter on February 11, 1982, and these commitments are still operative. EPA has reviewed the Indiana 1982 transportation control plans and has found that several significant deficiencies still remain in these plans. These are that the State needs to:

1. Provide documentation of the derivation of the Lake and Porter Counties' hydrocarbon reduction benefits assigned to each transportation control measure included in Exhibit 7-1 of the SIP submittal.

2. Submit documentation, based on a technical analysis, of the basis for the State's rejection of any of the transportation control measures contained in section 108(f) of the CAA for implementation in Clark, Floyd, Lake, and Porter Counties.

3. Commit to provide (a) an annual assessment which identifies the projects within Indiana's yearly Transportation Improvement Plans (TIP) that were implemented and (b) a Technical Analysis of the emission reduction benefits obtained from each implemented measure or package of measures.

4. Submit a discussion of the how the basic transportation needs (BTN) of the four Indiana counties, including the

<sup>11</sup>If EPA ultimately approves the Indiana I/M plan, this approval will remove the conditions which are still outstanding as a result of EPA's January 2, 1981 conditional approval of Indiana's commitment to implementing an I/M plan. See 40 CFR 52.786(h).



requisite provisions and commitments made for funding such BTNs, are being met. See sections 110(a)(3)(D), 110(c)(5)(B), and 172(b)(10) of the CAA.

EPA proposes to approve Indiana's transportation control plans providing that Indiana satisfactorily documents the above mentioned deficiencies during the public comment period. If the State needs additional time to remedy these deficiencies, it may commit to remedying the deficiencies and submit an expeditious schedule for remedying them. If EPA considers the State request acceptable, EPA will then approve the State's plan based on the State's commitment and schedule. (This schedule should not extend beyond one year from the date of EPA's final action.) If Indiana fails to provide the necessary documentation or an acceptable schedule for remedying these deficiencies, EPA will approve those portions of the plan which are approvable, but will not approve the plan as a whole until they are remedied.

#### Summary

1. EPA today is proposing to approve Indiana's transportation plan if deficiencies listed in this notice are rectified during the public comment period. If Indiana requires more time and acceptably commits to rectify the problems, EPA will approve those portions of the plan which are acceptable, but not approve the plan as a whole.

2. EPA today is proposing to approve Indiana's I/M plan only if the State provides during the public comment period: (1) An approvable, detailed description of its enforcement mechanisms (including a description from each of the appropriate State, county, and local officials of how they will enforce their portions of the program), (2) a description of the resources it will use to implement its I/M enforcement plan, (3) a demonstration that its I/M program meets the CAA's RACT requirement, and (4) a commitment to rectify the remaining deficiencies within one year or less.

3. EPA is proposing to approve Indiana's CO plan for the designated nonattainment area in Lake County.

4. EPA is proposing to approve the ozone attainment demonstration for Lake and Porter Counties if Indiana adopts Illinois' attainment demonstration as its own and submits it as a revision to the Indiana ozone SIP for the greater Chicago area.<sup>12</sup> This

submittal must also include a demonstration that the CAA's RFP requirement is met by the plan. If Indiana does not submit such a plan, EPA will approve those portions of the plan which are approvable but will disapprove the submitted attainment demonstration because it does not address attainment of the ozone NAAQS in Southeastern Wisconsin.

5. Finally, EPA is proposing to approve the ozone plan for Floyd and Clark Counties if the States commits to obtain the emission reductions presently included in Indiana's SIP submittal (or at least a 32.5% reduction from 1980 emission levels) regardless of whether these reductions can be obtained from the sources from which the State is presently intending to get them. If the State does not so commit, EPA will approve the emission control elements of the plan, because they will contribute towards attainment of the NAAQS. However, EPA will not approve the plan as a whole, because the best information available to EPA indicates that the emission reductions required to attain the NAAQS will not be obtained through the State's plan.

If EPA ultimately disapproves any significant part of the Indiana '82 ozone or CO SIP, the section 110(a)(2)(I) construction ban will automatically go into effect for the area and pollutant in question. EPA will also consider at that time whether or not it is appropriate to impose any or all of the restrictions contained in section 176(a). For further discussion of the circumstances under which EPA would impose these restrictions, see *Guidance Document for Correction of Part D SIP's for Nonattainment Areas*, January 27, 1984.

EPA is soliciting comments on the '82 ozone and CO plans submitted by Indiana and EPA's proposed action on this plan. Additional comments on the plans are included in the following EPA analyses.

1. Technical Support Document for the Transportation Control Measures Portion of the Indiana 1982 Ozone/CO SIP.

2. Review of the Vehicle Inspection and Maintenance Portion of the Indiana Final 1982 Ozone and Carbon Monoxide State Implementation Plan.

3. Review of Indiana's 1982 Carbon Monoxide SIP.

4. Indiana Ozone SIP for Northwest Indiana.

5. Technical Review of Indiana's 1982 Ozone State Implementation Plan for Clark and Floyd Counties.

#### 6. Review of Recent Illinois Ozone SIP Submittals.

EPA is also soliciting comments on the comments and analyses included within these documents. The documents are available for public inspection at the offices listed in the addresses section of this proposal. All comments on this notice should be received by the Region V office within 60 days of the date of this notice.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709). If EPA takes final action to disapprove any part of the Indiana Part D plan for ozone or CO, a moratorium on the construction and modification of major stationary sources for that pollutant (VOCs for ozone) will go into effect in certain portions of the State. EPA does not have sufficient information to determine the impacts a moratorium may have on small entities, because it is difficult to obtain reliable information on future plans for business growth. However, because EPA cannot be certain of the potential impact on small entities, the Agency invites comments on this issue. Every if a disapproval action, when promulgated, were to have a significant impact on a substantial number of small entities, the Agency could not modify the action. Under the Clean Air Act the imposition of a construction moratorium is automatic and mandatory whenever the Agency determines that a plan for an nonattainment area fails to meet the requirements of Part D of the Act.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA, response, are available for public inspection at the EPA, and any EPA response, are available for public inspection at the EPA Region V office listed above.

(Sections 110, 172 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7502, and 7601(a)))

Air pollution control, Intergovernmental relations, ozone, sulfur oxides, lead, nitrogen dioxide, particulate matter, carbon monoxide, hydrocarbons.

Dated: June 28, 1984.

Valdas V. Adamkus,  
Regional Administrator.

(FR Doc. 84-25281 Filed 10-5-84; 8:45 am)

BILLING CODE 6560-50-M

<sup>12</sup> Even if EPA approves Indiana's strategy for either the Indiana portion of the Chicago area or the Louisville area, it will not give final approval to these plans until all elements of the plans are fully approved.

## 40 CFR Part 52

[A-10-FRL-2687-4]

**Approval and Promulgation of State Implementation Plan: Washington****AGENCY:** Environmental Protection Agency (EPA);**ACTION:** Proposed rule.

**SUMMARY:** The purpose of this Notice is to invite public comment on EPA's proposal to approve revisions to the Washington State Implementation Plan (SIP) submitted on January 16, 1984. These revisions were submitted to satisfy requirements of Section 110 (Implementation Plans), and Section 173 (Permit Requirements) of the Clean Air Act (hereinafter the Act) and to implement new source review and emissions trading (offset and banking) programs for nonattainment areas within the jurisdiction of the Puget Sound Air Pollution Control Agency (PSAPCA).

**DATE:** Comments will be accepted until November 8, 1984.

**ADDRESSES:** Copies of the materials submitted to EPA may be examined during normal business hours at:

Air Programs Branch (10A-84-3),  
Environmental Protection Agency,  
Region 10, 1200 Sixth Avenue, Seattle,  
Washington 98101

State of Washington, Department of  
Ecology, 4224 6th Avenue SE., Rowe  
Six, Building #4, Lacey, Washington  
98504

Comments should be addressed to:  
Laurie M. Kral, Air Programs Branch, M/  
S 532, Environmental Protection Agency,  
1200 Sixth Avenue, Seattle, Washington  
98101.

**FOR FURTHER INFORMATION CONTACT:**  
David C. Bray, Air Programs Branch, M/  
S 532, Environmental Protection Agency,  
1200 Sixth Avenue, Seattle, Washington  
98101, Telephone: (206) 442-8577, FTS:  
399-8577.

**SUPPLEMENTARY INFORMATION:****Table of Contents**

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- II. Plan Revisions
- III. Summary of Actions

**I. Introduction**

The Puget Sound Air Pollution Control Agency (PSAPCA) is a local agency which has jurisdiction over King, Kitsap, Pierce and Snohomish counties. Within these counties there are several areas which are nonattainment for carbon monoxide (CO) and total suspended particulates (TSP) and one ozone nonattainment area. As required by Part D of the Act, the State of Washington

Department of Ecology (DOE) has adopted, and EPA has approved, a new source review program which requires new and modified major stationary sources in nonattainment areas to meet the lowest achievable emission rate, provide emission offsets and demonstrate statewide compliance. The SIP revisions being proposed for approval today embody the PSAPCA new source review program for the nonattainment areas within its jurisdiction and would result in the transfer of the authority for nonattainment area new source construction permits from DOE to PSAPCA. The PSAPCA program also includes provisions for banking of emission reduction credits, but allows such only for nonattainment pollutants in the designated nonattainment areas, and for use as emission offsets for new or modified major stationary sources.

**II Plan Revisions**

The SIP revisions involve amendments to Sections 1.07, 6.07(b) and 6.08 of Regulation I of the Puget Sound Air Pollution Control Agency. Specifically:

Section 1.07 GENERAL DEFINITIONS is amended by adding definitions of the terms "Facility" (Section 1.07(s)), "Source" (Section 1.07(rr), and "Volatile organic compound" (Section 1.07(xx)).

Section 6.07 ISSUANCE OF APPROVAL OR ORDER is amended by adding a new subsection 6.07(b)(7) which adds a new requirement regarding impact on nonattainment areas for new air contaminant sources which are not subject to the nonattainment area permit requirements.

A new section 6.08 SPECIAL CONDITIONS FOR NEW AIR CONTAMINANT SOURCES WHICH WILL SIGNIFICANTLY IMPACT A NONATTAINMENT AREA is added which adds provisions, as required by Section 173 of the Act, for new and modified major stationary sources in nonattainment areas. This includes a new subsection 6.08(a) "Policy" which establishes the new source growth management policy for nonattainment areas; a new subsection 6.08(b) "Definitions" which adds definitions of the terms "actual emissions," "allowable emissions," "emission reduction credit," "facility," "fugitive emissions," "lowest achievable emission rate," "major source," "new air contaminant source which will significantly impact a nonattainment area," "nonattainment area," "offset," "reasonable further progress," "secondary emissions," "source," "total allowable emissions;" a new subsection

6.08(c) "Evaluation Procedures" which add procedures for determining whether a new air contaminant source will significantly impact a nonattainment area and is therefore subject to these additional permit requirements; a new subsection 6.08(d) "General Requirements" which establishes the permit requirements for new air contaminant sources per the requirements of Section 173 of the Act; a new subsection 6.08(e) "Offset Conditions" which establishes the specific requirements which must be met for an emission offset to be approvable; and a new subsection 6.08(f) "Banking Conditions" which establishes a program for banking emission reduction credits for use as offsets for a period of up to eight (8) years.

**III. Summary of Actions**

EPA has concluded that these revisions satisfy the requirements of Section 173 of the Act and 40 CFR 51.18(j) and are consistent with EPA's emissions trading policy statement (47 FR 15076, April 7, 1982).

The PSAPCA regulation differs significantly from EPA's program (40 CFR 51.18(j)) in structure and terminology. However, EPA has determined that it satisfies all of EPA's requirements with three exceptions which will all be corrected. In order to support EPA's proposed approval of the PSAPCA regulation, EPA has prepared a technical support document to explain how certain requirements are met by PSAPCA's regulations, clarify how PSAPCA will implement certain provisions and establish the means whereby the three deficiencies will be corrected. This document is available for review at the addresses listed above.

Therefore, EPA is proposing to approve these revisions to the PSAPCA permit program, thereby transferring the authority for issuing permits pursuant to Part D of the Act from DOE and PSAPCA, and recognizing the PSAPCA emissions reduction credit banking program for use in the nonattainment areas within PSAPCA's jurisdiction.

Interested parties are invited to comment on all aspects of these proposed revisions to the Washington SIP. Comments should be submitted preferably in triplicate, to the address listed in the front of this Notice. Public comments postmarked by November 8, 1984 will be considered in any final action EPA takes on this proposal.

Pursuant to the provisions of 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals under Sections 110 and 172 of the Act will not

have a significant impact on a substantial number of small entities (46 FR 8709, January 27, 1981). This action constitutes a SIP approval under Sections 110 and 172 within the terms of the January 27, 1981 certification.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

(Sec. 110(a), 171 to 173, 301(a) of the Clean Air Act as amended (42 U.S.C. 7410(a), 7501 to 7503 and 7601(a)))

#### List of Subjects in 40 CFR Part 52

Intergovernmental relations, Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide.

Dated: September 27, 1984.

Ernesta B. Barnes,

*Regional Administrator.*

[FR Doc. 84-26500 Filed 10-3-84; 8:45 am]

BILLING CODE 6560-50-M

#### 40 CFR Part 65

[Docket No. DCO-IV-8404; A-4-FRL-2688-2]

**State and Federal Administrative Orders Permitting a Delay in Compliance with State Implementation Plan Requirements; Proposed Approval of an Administrative Order Issued by the Florida Department of Environmental Regulation to Arnold Cellophane Corp.**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve an Administrative Order issued by the Florida Department of Environmental Regulation to the Arnold Cellophane Corporation (Arnold). The Order was submitted to EPA for approval by DEM by letter of September 10, 1984. The Order requires Arnold to bring air emissions from its four (4) existing graphic arts presses, four (4) laminators and one (1) paper coating operation in Miami, Florida, into compliance with air pollution control regulations contained in the federally approved Florida State Implementation Plan (SIP) by September 1, 1985, for the graphic arts presses and October 1, 1985, for the laminating/paper coating operations. Because the Order has been issued to a major source of air pollution and permits a delay in compliance with provisions of the SIP, the Administrative Order must be approved by EPA before it becomes effective as a Delayed Compliance Order under the Clean Air Act (the Act).

If approved by EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the Order as a Delayed Compliance Order.

**DATE:** Written comments must be received on or before November 8, 1984.

**ADDRESS:** Comments should be submitted to Director, Air and Waste Management Division, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia, 30365. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

**FOR FURTHER INFORMATION CONTACT:** William Voshell, Air Management Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365, Telephone Number (404) 881-4253.

**SUPPLEMENTARY INFORMATION:** Arnold owns and operates a facility in Dade County, Miami, Florida, which operates as a converter for the flexible packaging industry. This facility is a stationary installation which can reasonably be expected to be a source of air pollution for the emission of volatile organic compounds (VOCs). The regulation of VOC Categories Paper Coating and Graphic Arts Systems, was adopted under Chapter 403, Florida Statutes, and Chapter 17-2, Florida Administrative Code (FAC), as part of the Florida State Implementation Plan upon approval in the November 24, 1981, Federal Register, 46 FR. and the March 18, 1980, Federal Register, 46 FR. 17140, respectively. The potential VOC emissions from the Miami facility are greater than 100 tons per year. The Miami facility is located in a designated nonattainment area for ozone. The Department of Environmental Regulation (Department) is the agency of the State of Florida authorized and required by Chapter 403, Florida Statutes, to control and prohibit air pollution in accordance with state laws. The Metropolitan Dade County Environmental Resources Management (MDCERM) is a federally approved local program as provided by Section 403.182, Florida Statute, with authority to regulate under Chapter 403, Florida Statutes, as well as under local ordinances.

The laminator and paper coating processes used at the Miami facility are subject to the requirements of Rule 17-

2.650(1)(f)3., FAC, which provides for specific emission limitations for roll, knife, or rotogravure coaters and drying ovens of paper coating lines. The graphic arts presses are subject to the requirements of Rule 17-2.650(1)(f)16., FAC, which provides for specific emission limitations for all packaging rotogravure, publication rotogravure, or flexographic printing operations whose potential to emit VOCs is equal to or more than 100 tons per year. For the above processes and regulations, Rule 17-2.650(1)(b)1.d.(iii), FAC, requires final compliance with the specific emission limiting standards no later than October 1, 1982, if the source planned to comply by employing low solvent techniques.

Arnold has done research and development of low solvent inks for both the paper coating and graphic arts operations but is presently unable to comply with either Rule 17-2.650(1)(f)3. FAC or Rule 17-2.650(1)(f)16. FAC, using low solvent technology. Arnold anticipates that by December 1, 1985, it will be well within the standard for low solvent technology for its paper coating lines but will fail to meet the standard for low solvent technology on its graphic arts lines.

The order under consideration addresses the control of VOC emissions causing pollution which are subject to federally approved Florida regulations. The regulations limit the emission of VOCs from the graphic arts and paper coating operations and are part of the federally approved Florida State Implementation Plan. The Order requires final compliance be achieved and demonstrated for the graphic arts operation no later than September 1, 1985. Arnold commits to achieve final compliance through the installation and operation of an incineration system approved by the Department.

This Order requires final compliance be achieved and demonstrated for the paper coating/lamination operation by October 1, 1985, through the implementation of the following schedule for the development of low solvent techniques or the installation of add-on control equipment:

1. By March 1, 1985, Arnold shall evaluate the likelihood of successfully meeting the October 1, 1985 deadline using low solvent technology and submit a report stating whether it intends to proceed with low solvent technology or whether it intends to rely on add-on controls as the method of compliance. If compliance using low solvent technology is deemed to be unlikely, Arnold shall commit to the ordering and installation of add-on VOC control equipment (i.e., incineration), approved

by the Department, that will result in final compliance on or before October 1, 1985.

2. If low solvent technology is used, final compliance for paper coating is to be determined on a daily basis. This Order will be modified to reflect any change in EPA national policy which would allow for an averaging period greater than daily averaging. In making the calculation for final compliance, Arnold may average the coatings across paper coating lines.

Failure to meet the interim compliance deadlines set forth in Appendix A of the Order shall result in a pre-determined stipulated non-compliance penalty for each interim deadline. If compliance is not achieved on the final deadline dates, Arnold shall cease all operations which result in emissions of VOCs in excess of the applicable rules. Operations shall be resumed until the Department has reasonable assurances that Arnold has achieved final compliance.

Arnold has consented to the terms of the Order and has agreed to meet the Order's increments during the period of this informal rulemaking. The source is required to submit quarterly reports by the 20th day after the beginning of the month in which they are due indicating progress toward each milestone in the schedule of compliance. If any delay is anticipated in meeting said incremental compliance milestones, Arnold shall immediately notify the Florida DER Southeast District Manager and the MDCERM in writing of the anticipated delay and reasons therefor. Notification of the delay shall not excuse the delay. In addition, Arnold shall submit, no later than the deadline for completing each increment of compliance contained within Appendix A, including final compliance, certification to the District Manager and the MDCERM whether or not such milestone has been met. Arnold shall perform operation and maintenance practices on all sources as necessary to prevent malfunctions and breakdowns and to reduce emissions in excess of the rules to the maximum extent practicable.

Because this Order has been issued to a major source of Volatile Organic Compound emissions and permits a delay in compliance with the applicable state air pollution control regulation(s), it must be approved by EPA before it becomes effective as a Delayed Compliance Order under section 113(d) of the Clean Air Act (the Act). EPA may approve the Order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above-referenced Order satisfies these legal requirements.

If the submitted Administrative Order is approved by EPA, source compliance with its term would preclude federal enforcement action under section 113 of the Act against the source for violations of the regulation(s) covered by the Order during the Period the Order is in effect. Enforcement against the source under the citizen suit provisions of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Florida SIP. Compliance with the proposed Order will not exempt the company from the requirements contained in any subsequent revisions to the SIP which are approved by EPA. All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the Federal Register the Agency's final action on the Order in 40 CFR Part 65.

Authority: 42 U.S.C. 7413, 7601.

Dated: September 25, 1984.

Charles R. Jeter,

*Regional Administrator, Region IV.*

[FR Doc. 84-26579 Filed 10-5-84; 9:45 am]

BILLING CODE 6560-50-M

#### 40 CFR Part 65

[Docket No. DCO-IV-8405; A-4-FRL-2687-7]

**State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Approval of an Administrative Order Issued by the Florida Department of Environmental Regulation and Hillsborough County Environmental Protection Commission to Continental Can Co., Inc.**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve and Administrative Order issued jointly by the Florida Department of Environmental Regulation and the Hillsborough Environmental Protection Agency to the Continental Can Company, Inc., (Continental). This order was submitted to EPA for approval by letter of August 8, 1984. This Order requires Continental to bring air emissions from its end seam compounding operations and two (2) "sheet" coating units in Tampa, Florida, into compliance with air pollution

control regulations contained in the federally approved Florida State Implementation Plan (SIP) by February 1, 1985 and September 1, 1985, respectively. Because the Order has been issued to a major source of air pollution and permits a delay in compliance with provisions of the SIP, the Administrative Order must be approved by EPA before it becomes effective as a Delayed Compliance Order under the Clean Air Act (the Act). If approved by EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the Order as a Delayed Compliance Order.

**DATE:** Written comments must be received on or before November 8, 1984.

**ADDRESSES:** Comments should be submitted to Director, Air and Waste Management Division, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia, 30365. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

#### FOR FURTHER INFORMATION CONTACT:

William Voshell, Air Management Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365, Telephone Number (404) 881-4253.

#### SUPPLEMENTARY INFORMATION:

Continental owns a facility in Hillsborough County, Tampa, Florida, which operates as a can coating plant (Plant #58). This facility is a stationary installation which can reasonably be expected to be a source of air pollution for the emission of volatile organic compounds (VOCs). The regulation of VOC, Category Can Coating, was adopted under Chapter 403, Florida Statutes, and Chapter 17-2, Florida Administrative Code (FAC), as part of the Florida State Implementation Plan upon approval in the March 18, 1980, Federal Register, 45 FR 17140. The potential VOC emissions from Plant #58 are greater than 100 tons per year. Plant #58 is located in a designated nonattainment area for ozone.

The Department of Environmental Regulation (Department) is the agency of the State of Florida authorized and required by Chapter 403, Florida Statutes, to control and prohibit air pollution in accordance with state laws.

The Hillsborough County Environmental Protection Commission (EPC) is a federally approved local program as provided by Section 403.182, Florida Statutes, with authority to regulate under Chapter 403, Florida Statutes, as well as under local ordinances.

The can coating process used at Plant #58 is subject to Rule 17-2.650(1)(f)1., FAC, which provides for specific emission limitations for can coating operations and Rule 17-2.650(1)(b)1.d.(iii), FAC, which requires final compliance with the emission limiting standards for can coating no later than October 1, 1982, if the source planned to comply by employing low solvent techniques.

Continental has conducted research, development and testing of low solvent coating technology. As a means of achieving compliance with VOC regulations in the shortest possible time, Continental has focused its attention on the high volume materials and end seam compounds. It is Continental's intention to obtain the necessary approval from its customers in order to commercialize the coatings and end seam compounds for use in all of its can plants.

Final compliance shall be achieved and demonstrated no later than September 1, 1985. If compliance is not achieved, Continental shall cease all operations at Plant #58 which result in emission of VOCs in excess of the applicable rules. Operations shall not be resumed until the Department has received reasonable assurances that Continental has achieved required final compliance.

The Order under consideration addresses the control of VOC emissions causing pollution which are subject to federally approved Florida regulations. These regulations limit the emission of VOCs for can coating operations and are part of the federally approved Florida State Implementation Plan. The Order requires final compliance with the regulation by no later than September 1, 1985, through the implementation of the following schedule for the development of low solvent techniques (LST) or the installation of add-on control equipment:

1. By February 1, 1985, Continental shall evaluate the likelihood of successfully meeting the September 1, 1985, deadline using LST and submit a report stating whether it intends to proceed with LST or whether it intends to rely on add-on controls as the method of compliance.

(a) If compliance using LST is deemed to be likely, Continental shall meet the

following interim compliance deadlines:

(1) As expeditiously as practical but not later than February 1, 1985, Continental shall implement the commercial application of low solvent coating materials for all end seam compounds for beverage can ends.

(2) As expeditiously as practical but not later than November 1, 1984, Continental shall implement the commercial application of low solvent coating materials for all outside coatings of aluminum can end stock.

(3) As expeditiously as practical but not later than February 1, 1985, Continental shall implement the commercial application of low solvent coating materials for all the inside coating for aluminum can end stock.

(b) In compliance using LST is deemed to be unlikely, Continental shall meet the following interim compliance deadlines:

(1) By February 15, 1985, Continental shall submit to the Department a complete application for installation on the sheet coating line of add-on VOC control equipment (e.g., afterburner, carbon absorption), including the method of VOC capture to be utilized.

(2) Unless informed by the Department by March 15, 1985, of the unacceptability of the equipment proposed, Continental shall obtain a purchase order and a contract for installation of the equipment no later than March 25, 1985. Proof of compliance with this provision shall be submitted to the Department by April 1, 1985.

(3) Continental shall verify that construction of the VOC control and capture system is complete and submit the results of compliance tests no later than August 15, 1985.

#### Final Compliance

2. Continental shall achieve and demonstrate final compliance with the VOC emission limiting standard for can coating set forth in the Delayed Compliance Consent Order no later than September 1, 1985. This source has consented to the terms of the Order and has agreed to meet the Order's increments during the period of this informal rulemaking. The source is required to submit quarterly reports by the 20th day after the beginning of the month in which they are due, indicating progress toward each milestone in the schedule of compliance. If any delay is anticipated in meeting said milestones, Continental shall immediately notify the Florida DER Southwest District Manager and the Hillsborough EPC Director in

writing of the anticipated delay and reasons therefor. Notification of the delay shall not excuse the delay. In addition, Continental shall submit, no later than the deadline for completing each increment of compliance including final compliance, certification to the District Manager and the Director whether or not such milestone has been met. Continental shall perform operation and maintenance practices on all sources as necessary to prevent malfunctions and breakdowns and to reduce emissions in excess of the rules to the maximum extent practicable.

Because this Order has been issued to a major source of VOC emissions and permits a delay in compliance with the applicable state air pollution control regulations, it must be approved by EPA before it becomes effective as a Delayed Compliance Order under section 113(d) of the Clean Air Act (the Act). EPA may approve the Order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above-referenced Order satisfies these legal requirements.

If the submitted Administrative Order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulations covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Florida SIP. Compliance with the proposed Order will not exempt the company from the requirements contained in any subsequent revision to the SIP which are approved by EPA. All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the Federal Register the Agency's final action on the Order in 40 CFR Part 65.

Authority: 42 U.S.C. 7413, 7601.

Dated: September 25, 1984.

Charles R. Jeter,

Regional Administrator Region IV.

[FR Doc. 84-2333 Filed 10-5-84; 8:45 am]

BILLING CODE 6560-50-M

## 40 CFR Part 65

[Docket No. DCO-IV-8406; A-4-FRL-2686-6]

**State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Approval of an Administrative Order Issued Jointly by the Alabama Department of Environmental Management and the Jefferson County Board of Health to National Can Co.**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve an Administrative Order issue jointly by the Alabama Department of Environmental Management and the Jefferson County Board of Health to National Can Company. This was submitted to EPA for approval by letter of September 25, 1984, from the State of Alabama.

The Order requires National Can Company to bring volatile organic compound (VOC) air emissions from its Pinson Can Coating facility in Jefferson County, Tarrant, Alabama (an ozone nonattainment area) into compliance with air pollution control regulations contained in the federally approved Alabama State Implementation Plan (SIP) by December 31, 1985. Because the Order has been issued to a major source of air pollution and permits a delay in compliance with the provisions of the SIP, the Order must be approved by EPA before it becomes effective as a Delayed Compliance Order (DCO) under the Clean Air Act (the Act). If approved by EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved DCO may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the DCO. The purpose of this notice is to invite public comment on EPA's proposed approval of the Order as a Delayed Compliance Order. EPA is proposing to approve the Order in its entirety with the exception of Section V, specifically, the sentence addressing modifications to the recordkeeping protocol. The Jefferson County Bureau of Environmental Health has agreed by letter of September 27, 1984, that they will not modify the reporting and recordkeeping requirements without EPA's approval.

**DATE:** Written comments must be received on or before November 8, 1984.

**ADDRESSES:** Comments should be submitted to the Director, Air and

Waste Management Division, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia, 30365. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Ben Moore, Air Management Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365, Telephone Number (404) 881-4253.

**SUPPLEMENTARY INFORMATION:** The DCO issued by the Alabama Department of Environmental Management (ADEM) and the Jefferson County Board of Health (JCBH) to National Can Corporation addresses existing violations of the Alabama State Implementation Plan (SIP) pertaining to volatile organic compound (VOC) emissions. It has been determined that National Can is currently unable to achieve compliance with the VOC emission limits specified under Subparagraph 8.11.1(c)(1) and 8.11.1(c)(4) of the JCBH Air Pollution Control Rules and Regulations and Subparagraphs 6.11.1(c)(1) and 6.11.1(c)(9) of the ADEM Air Pollution Control Rules and Regulations at its Pinson Can Coating facility. The ADEM VOC regulations were approved as part of the Alabama SIP on November 26, 1979. Acting pursuant to the authority contained in the Alabama Air Pollution Control Act of 1971, the JCBH adopted the aforementioned VOC regulations on January 28, 1972. It was determined that National Can cannot reasonably achieve compliance with these VOC regulations because technology does not presently exist to develop a suitable can coating method using low solvent coatings. Therefore, National Can has agreed to come into compliance with the VOC regulations by December 31, 1985, by employing daily alternate emission compliance techniques (per 45 FR 80825) or reformulation using low solvent technology and/or incineration (if necessary). The compliance schedule incorporated in the Order contains interim compliance dates for the evaluation of low solvent coatings and for the installation of control equipment if low solvent coatings cannot achieve compliance by July 20, 1985. The schedule for the installation of the control equipment is as follows:

Interim compliance date	Increment of progress
Aug. 20, 1985.....	Place order for control equipment.
Oct. 20, 1985.....	Begin installation of control equipment.

Interim compliance date	Increment of progress
Nov. 20, 1985.....	Complete installation of control equipment.
Dec. 15, 1985.....	Complete source testing for compliance.
Dec. 31, 1985.....	Demonstrate and maintain final compliance with the applicable ADEM and JCBH VOC regulations.

National Can has consented to the terms of the Order and has agreed to meet the Order's increments of programs during the period of this informal rulemaking. National Can is further required to submit reports (5 total) indicating progress toward compliance while evaluating the use of low solvent coatings. Failure of National Can to comply with any of the increments of progress set forth in the compliance schedule will result in partial or total forfeiture of the amount specified in a Surety Bond, required under the Order, and will also subject the source to federal enforcement pursuant to § 113 of the Clean Air Act (the Act). As a further interim control measure, VOC emissions from the can coating facility shall not exceed 846.0 tons per year. Furthermore, National Can shall not allow VOC emissions from the plant's operating units to exceed the following limits:

Litho lines—691 lb/day  
Coater lines—2000 lb/day  
End sealing lines—170 lb/day

Because this Order has been issued to a major source of VOC emissions and permits a delay in compliance with the applicable state air pollution control regulations, it must be approved by EPA before it becomes effective as a Delayed Compliance Order under section 113(d) of the Act. EPA may approve the Order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above-referenced Order satisfies these legal requirements.

If the submitted Administrative Order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulations covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Alabama SIP. Compliance with the proposed Order will not exempt the company from the requirements contained in any subsequent revision to the SIP which is approved by EPA. All interested persons are invited to submit



written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the Federal Register the Agency's final action on the Order in 40 CFR Part 65.

Authority: 42 U.S.C. 7413, 7601.

#### List of Subjects in 40 CFR Part 65

Air Pollution Control

Dated: September 28, 1984.

Charles R. Jeter,

Regional Administrator Region IV.

[FR Doc. 84-26481 Filed 10-5-84; 8:45 am]

BILLING CODE 6560-50-M

#### 40 CFR Part 65

[Docket No. DCO-IV-8402; OAR-FRL-2687-1]

**State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Approval of an Administrative Order Issued by the Memphis-Shelby County Health Department to Cleo Wrap, Division of Gibson Greeting Cards, Inc.**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve an Administrative Order issued by the Memphis-Shelby County Health Department (MSCHD) to Cleo Wrap, Division of Gibson Cards, Inc. (Cleo Wrap). The Order requires Cleo Wrap to bring air emissions from its six (6) rotogravure presses and two (2) tinter embossers (hereinafter referred to as eight (8) presses) in Memphis, Tennessee, into compliance with air pollution control regulations contained in the federally approved Tennessee State Implementation Plan (SIP) by December 31, 1985. Because the Order has been issued to a major source of air pollution and permits a delay in compliance with provisions of the SIP, the Administrative Order must be approved by EPA before it becomes effective as a Delayed Compliance Order under the Clean Air Act (the Act). If approved by EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's

proposed approval of the Order as a Delayed Compliance Order.

**DATE:** Written comments must be received on or before November 8, 1984.

**ADDRESS:** Comments should be submitted to Director, Air and Waste Management Division, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia, 30365. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

**FOR FURTHER INFORMATION CONTACT:** Mr. Floyd Ledbetter, Chief, Northern Compliance Unit, Air Compliance Section, Air Management Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365, Telephone Number (404) 881-4298.

**SUPPLEMENTARY INFORMATION:** Cleo Wrap, a Division of Gibson Cards, Inc., operates six (6) rotogravure printing presses and two (2) tinter-embossers (hereinafter referred to as eight (8) printing presses) at its plant located at 4025 Viscount Avenue, Memphis, Tennessee, for the purpose of producing gift-wrapping paper.

In March 1981, Cleo Wrap submitted its first compliance plan to MSCHD with a final compliance date of July 1, 1987. This plan was approved by MSCHD but not by EPA, since it would extend beyond the time allowed under the Clean Air Act (CAA). Subsequently, EPA issued a Notice of Violation on June 22, 1983, and on March 16, 1984, requested a meeting with Cleo Wrap in April 1984. MSCHD submitted a draft DCO on April 20, 1984, with a final compliance date of December 31, 1985, thus making the meeting scheduled by EPA unnecessary. MSCHD continued to refine the DCO, working out the emission limit and averaging time concerns, and subsequently submitted the final DCO on September 20, 1984.

The Order under consideration addresses VOC emissions from the 8 printing presses of Cleo Wrap in Memphis causing pollution which is subject to Section 3-22 Memphis City Code (MCC), Reference 1200-3-18-.29 of the Tennessee Air Quality Act (TAQA). These regulations limit the emission of VOC's and are part of the federally approved Tennessee State Implementation Plan. The Order requires final compliance with the above regulation by December 31, 1985, through the implementation of the following schedule for the construction or installation of control equipment or reformulation:

**Option A—25% or less organic's and 75% water or more by December 31, 1985.**

**Option B—60% or more nonvolatile materials by December 31, 1985.**

**Option C—Add on controls to achieve at least 65% reduction;**

1. Final plans to be submitted by June 1, 1985;

2. On-site construction or installation by August 1, 1985;

3. Final compliance before December 31, 1985.

**Option D—In lieu of A or B, daily average across all lines in accordance with an alternate emission standard approved by the MSCHD and EPA.**

The source has consented to the terms of the Order and has agreed to meet the Order's increments during the period of this informal rulemaking. The source is required to submit quarterly reports commencing in June 1984, and continuing through December 1985, indicating progress toward each milestone in the schedule of compliance. If any delay is anticipated in meeting said milestones, Cleo Wrap shall immediately notify the MSCHD in writing of the anticipated delay and reasons therefor. Notification of the delay shall not excuse the delay. In addition, Cleo Wrap shall submit, no later than 5 days after the deadline for completing each milestone required by the above schedule, certification to the MSCHD whether or not such milestone has been met.

As an interim control measure, VOC emissions from the printing presses shall not exceed an average of 4.83 pounds of VOC per ream (as measured on a 30-day operating basis) from the effective date of this Order until December 31, 1984, and an average of 4.41 pounds of VOC per ream from December 31, 1984, until December 31, 1985. After December 31, 1985, the final emission limit will be 1.69 pounds of VOC per ream on a daily basis.

Because this Order has been issued to a major source of VOC emissions and permits a delay in compliance with the applicable state air pollution control regulation(s), it must be approved by EPA before it becomes effective as a Delayed Compliance Order under section 113(d) of the Clean Air Act (the Act). EPA may approve the Order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above-referenced Order satisfies these legal requirements. If the submitted Administrative Order is approved by EPA, source compliance with its terms would preclude federal enforcement action under section 113 of the Act against the source for violations



of the regulation(s) covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Tennessee SIP. Compliance with the proposed Order will not exempt the company from the requirements contained in any subsequent revision to the SIP which is approved by EPA.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above

will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the Federal Register the Agency's final action on the Order in 40 CFR Part 65.

Authority: 42 U.S.C. 7413, 7601.

**List of Subjects in 40 CFR Part 65**

Air Pollution Control.

Dated: September 25, 1984.

Charles R. Jeter;  
*Regional Administrator, Region IV.*

[FR Doc. 84-26483 Filed 10-5-84; 8:45 am]

BILLING CODE 6560-50-M

# Notices

Federal Register

Vol. 49, No. 196

Tuesday, October 9, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## ACTION

### Information Collection Request Under Review

**AGENCY:** ACTION.

**ACTION:** Information Collection Request Under Review.

**SUMMARY:** This notice sets forth certain information about an information collection proposal by ACTION, the national volunteer agency.

#### Background

Under the Paperwork Reduction Act (44 U.S.C., Chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposals to collect information from the public or to impose recordkeeping requirements. ACTION has submitted the information collection proposal described below to OMB. OMB and ACTION will consider comments on proposed collection of information and recordkeeping requirements. Copies of the proposed forms and supporting documents (request for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents) may be obtained from the agency clearance officer.

#### Information About This Proposed Collection

Agency Clearance Officer—William W. Lovelace, 202-634-9310.

Agency address: Action, 806 Connecticut Ave., NW., Washington, D.C. 20525.

Office of Action issuing proposal: Office of policy and planning.

Title of form: Nomination form for "The President's Volunteer Action Awards".

Type of request: Reinstatement.

Frequency of collection: Annual.

General description of respondents: Individuals with nominations for awards.

Estimated Number of Annual Responses: 2,500.

Estimated annual reporting or disclosure burden: 2,500 hours.

Respondent's Obligation to Reply: Voluntary.

Person responsible for OMB Review: Bruce Artim, 202-395-7316.

William W. Lovelace,  
*ACTION Clearance Officer.*

[FR Doc. 84-25597 Filed 10-5-84; 8:45 am]

BILLING CODE 6050-01-M

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Sierra National Forest Grazing Advisory Board; Meeting

The Sierra National Forest Grazing Advisory Board will meet at 9:00 a.m., November 7, 1984, in Room 3208, of the Federal Building, 1130 O Street, Fresno, California.

#### Agenda:

1. Summary of use of Range Betterment Funds.
2. Review draft base property requirements for Sierra National Forest.
3. Proposed Range Betterment projects for 1985.
4. Don Neal, Pacific Southwest Range Experiment Station (PSW), Lion Study update and what it means to local livestock industry.
5. Update of Wilderness Bill and how it will affect permittees.

The meeting will be open to the public.

The committee has established the following rules for public participation: Matters identified by the public will be considered by the Board at the close of the planned agenda.

Dated: September 26, 1984.

Tommy E. Baxter,  
*Deputy Forest Supervisor.*

[FR Doc. 84-25547 Filed 10-5-84; 8:45 am]

BILLING CODE 3410-11-M

## COMMISSION ON CIVIL RIGHTS

### California Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the California Advisory Committee to the Commission

will convene at 7:00 p.m. on October 26, 1984 and will end at 2:00 p.m. on October 27, 1984, at the Pepper Tree Inn, Bark Room, 3850 State Street, Santa Barbara, California 93105. On October 26, the Education and Telecommunications Subcommittees will meet to discuss on-going projects. On October 27, the full California State Advisory Committee will meet to discuss present projects and future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Western Regional Office at (213) 688-3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 1, 1984.

John I. Binkley,

*Advisory Committee Management Officer.*

[FR Doc. 84-25593 Filed 10-5-84; 8:45 am]

BILLING CODE 6335-01-M

### Maine Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Maine Advisory Committee to the Commission will convene at 10:00 a.m. and will end at 12:00 noon, on October 23, 1984, at the Statehouse, Governor's Cabinet Room, 2nd Floor, Augusta, Maine 04333. The purpose of the meeting is for the Advisory Committee to discuss a draft of a briefing memorandum on the Maine Equal Rights Amendment.

Persons desiring additional information, or planning a presentation to the Committee, should contact the New England Regional Office at (617) 223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 1, 1984.

John I. Binkley,

*Advisory Committee Management Officer.*

[FR Doc. 84-25593 Filed 10-5-84; 8:45 am]

BILLING CODE 6335-01-M

### Maryland Advisory Committee; Amendment to Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the Advisory Committee to the Commission originally scheduled for October 10, 1984, at Rockville, Maryland (FR Doc 84-24503 on page 36422, September 17, 1984) has a new meeting date and time.

The meeting will be held on October 24, 1984, from 6:30 p.m. until 9:00 p.m. The address will remain the same.

Dated at Washington, D.C., October 3, 1984.

John I. Binkley,  
Advisory Committee Management Officer.

[FR Doc. 84-26590 Filed 10-5-84; 8:45 am]

BILLING CODE 6335-01-M

### Rhode Island Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Rhode Island Advisory Committee to the Commission will convene at 12:00 noon and will end at 1:30 p.m., on October 22, 1984, at the Urban League of Rhode Island, 246 Prairie Avenue, Providence, Rhode Island 02905. The purpose of the meeting is for the Affirmative Action Subcommittee to review its preliminary plans for identifying sample firms and a proposed interview schedule.

Persons desiring additional information, or planning a presentation to the Committee, should contact the New England Regional Office at (617) 223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, DC., October 1, 1984.

John I. Binkley,  
Advisory Committee Management Officer.

[FR Doc. 84-26591 Filed 10-5-84; 8:45 am]

BILLING CODE 6335-01-M

### DEPARTMENT OF COMMERCE

#### International Trade Administration [A-588-401]

#### Calcium Hypochlorite From Japan; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: Import Administration,  
International Trade Administration,  
Commerce.

ACTION: Notice.

**SUMMARY:** We have preliminarily determined that calcium hypochlorite from Japan is being, or is likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination, and we have directed the U.S. Customs Service to suspend the liquidation of all entries of calcium hypochlorite from Japan that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice. We have examined the sales of two Japanese producers, which account for approximately 99 percent of imports into the United States.

If this investigation proceeds normally, we will make a final determination by December 17, 1984.

**EFFECTIVE DATE:** October 9, 1984.

**FOR FURTHER INFORMATION CONTACT:** William D. Kane, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-1766.

#### SUPPLEMENTARY INFORMATION:

##### Preliminary Determination

We have preliminarily determined that calcium hypochlorite from Japan is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act). We have found margins on sales of calcium hypochlorite by both firms investigated.

We have found that the foreign market value of calcium hypochlorite exceeded the United States price on 72.9 percent of the sales we compared. These margins ranged from 0.9 percent to 38 percent. The overall weighted-average margin on all sales compared is 13.39 percent. The weighted-average margins for individual companies investigated are presented in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by December 17, 1984.

##### Case History

On April 25, 1984, we received a petition filed by Olin Corporation, on behalf of the U.S. industry producing calcium hypochlorite. In compliance with the filing requirements of § 353.36 of our Regulations (19 CFR 353.36), the petition alleged that imports of calcium

hypochlorite from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening material injury to, a U.S. industry. The petition also alleged that critical circumstances exist under section 733(e) of the Act.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on May 21, 1984 (49 FR 21390). The ITC subsequently found, on June 11, 1984, that there is a reasonable indication that imports of calcium hypochlorite are materially injuring, or are threatening material injury to, a United States industry.

The petitioner alleged that at least three Japanese companies produce calcium hypochlorite for export to the United States. We found that two of these companies, Nippon Soda and Nissin Denka, accounted for 99 percent of imports and 100 percent of sales to the United States during the period of investigation. Questionnaires were presented to these companies in Japan on May 31, 1984. Nissin Denka responded to the questionnaire on June 29, 1984. Nippon Soda responded on July 2, 1984.

##### Scope of Investigation

The product covered by the investigation is calcium hypochlorite, currently provided for in item 418.2200 of the *Tariff Schedules of the United States, Annotated* (TSUSA).

Since the respondents produced and exported approximately 99 percent of the calcium hypochlorite shipped from Japan to the United States during the period of investigation, we limited our investigation to them.

We investigated sales of calcium hypochlorite by these respondents during the period from April 1, 1983 to April 30, 1984.

##### Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

##### United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price for the sales by the Japanese producers, because the merchandise was sold to unrelated

purchasers prior to its importation into the United States.

We calculated the purchase price on the ex-go-down, FOB, or CIF, duty paid, delivered, packed price to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight, foreign inland insurance, foreign brokerage and handling charges, ocean freight, marine insurance, U.S. Customs duties, U.S. brokerage and handling charges, and U.S. inland freight.

#### Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on home market FOB factory, C&F, or CIF, packed prices to unrelated purchasers. From these prices we made deductions, where appropriate, for foreign inland freight, foreign inland insurance and rebates. We made an adjustment for credit expenses in accordance with § 353.15 of the Commerce regulations. We made adjustments for the cost of materials, labor and direct factory overhead associated with differences in merchandise in accordance with § 353.16 of the Commerce regulations. We also deducted the home market packing cost and added the packing cost incurred on sales to the United States.

The following claims were disallowed in calculating foreign market value. Nissin Denka claimed an amount for indirect selling expenses in the home market to offset a claim for a direct selling expense allowance in the U.S. for sales it considered to be exporter's sales price. Because, as mentioned above, we considered these transactions to be purchase price sales, we did not deduct direct selling expenses in connection with the U.S. sales. Therefore, there are no expenses to offset, and we have not allowed these claims.

Nippon Soda has claimed amounts for rebates, technical services expenses, advertising and promotional expenses, post-sale loading, shipping, and communication expenses, and an adjustment for different levels of trade. None of these claims have been allowed at this time because of insufficient documentation and explanation. We will seek further information for purposes of our final determination.

Products being investigated are 65 percent and 70 percent calcium hypochlorite. These are in granular and tablet forms. In the case of Nippon Soda, only Hichlon brand product is sold to the U.S. Since there are sufficient sales of the identical brand in the home market, we are limiting our comparisons to that brand. For the 65 percent product sold to the U.S., but not sold in the home

market, we are using for comparison the 70 percent product, adjusted for differences in manufacturing costs.

In the case of Nissin Denka, we are comparing 65 percent and 70 percent granular form Niclon brand sold to the U.S. to 70 percent granular and tablet form Niclon brand sold in the home market with an adjustment to the tableted product for differences in cost of manufacture.

#### Verification

In accordance with section 776(a) of the Act, we will verify all data used in reaching a final determination in this investigation.

#### Critical Circumstances

We find no history dumping of calcium hypochlorite from Japan in the U.S. or elsewhere in the world nor is there any indication that importers of the merchandise knew or should have known it was being sold at less than fair value. Therefore, we have preliminarily determined that critical circumstances do not exist.

#### ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

#### Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of calcium hypochlorite from Japan which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register. The Custom Service shall require a cash deposit of the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. This suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

Manufacturer	Weighted-average margin (percent)
Nippon Soda	18.75
Nissin Denka	2.33
All other	13.33

#### Public Comment

In accordance with § 353.47 of the Commerce Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on November 1, 1984, at the U.S. Department of Commerce, Room A, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, at the above address within 10 days of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by October 25, 1984. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of publication of this notice, at the above address and in at least 10 copies.

Dated: October 2, 1984.

Alan F. Holmer,  
Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-22042 Filed 10-5-84; 8:45 am]  
BILLING CODE 3510-25-M

[A-428-018]

#### Carbon Steel Plate From the Federal Republic of Germany: Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of Preliminary Determination.

SUMMARY: We have preliminarily determined that carbon steel plate from the Federal Republic of Germany (FRG) is being, or is likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and we have directed the U.S. Customs Service to suspend the

liquidation of all entries of carbon steel plate from the FRG that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to 1.97 percent.

If this investigation proceeds normally, we will make a final determination by December 14, 1984.

**EFFECTIVE DATE:** October 9, 1984.

**FOR FURTHER INFORMATION CONTACT:** Paul Tambakis, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-0186.

**SUPPLEMENTARY INFORMATION:**

**Preliminary Determination:**

We have preliminarily determined that carbon steel plate from the FRG is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). We have preliminarily determined the weighted-average margin of all sales compared for Dillinger to be 1.97 percent *ad valorem*.

**Case History**

On September 29, 1983, we received a petition filed by Gilmore Steel Corporation, Portland, Oregon, on behalf of both the national and West Coast carbon steel plate products industries. In compliance with the filing requirements of § 353.36 of our regulations (19 CFR 353.36), the petition alleged that imports of carbon steel plate from the FRG are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that these imports materially injure, or threaten material injury to, a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We initiated the investigation on October 25, 1983 (48 FR 49322), and notified the ITC of our action.

On November 7, 1983, the ITC found that there is a reasonable indication that imports of carbon steel plate from the FRG are materially injuring a U.S. industry (U.S. ITC Pub. No. 1451 (November 1983)), making no determination as to the alleged regional injury. Subsequently, we published a rescission of our notice of initiation of investigation and dismissal of petition (49 FR 3503, January 27, 1984) on grounds that Gilmore had not properly filed on behalf of a national industry.

Gilmore contested this action by filing suit in the Court of International Trade. The court upheld our rescission and dismissal insofar as the petition purported to be on behalf of a national industry, but reversed our action insofar as the petition was on behalf of an alleged regional industry and remanded this matter to us for further proceedings (*Gilmore Steel Corporation v. United States*, Court No. 84-2-00228, slip op. 84-45, April 23, 1984). Accordingly, we re-initiated an antidumping investigation of carbon steel plate from the FRG on May 22, 1984 (49 FR 21556), and notified the ITC of our action. On June 27, 1984, the ITC found that there is a reasonable indication that imports of carbon steel plate from the FRG are materially injuring a regional industry, consisting of producers of carbon steel plate located in California, Oregon and Washington (U.S. ITC Pub. No. 1550 (July, 1984)).

We presented questionnaires concerning the allegations to counsel for Thyssen, A.G. and A.G. der Dillinger Huttenwerke (Dillinger), on May 22 and May 28, 1984, respectively. On June 18, 1984, we received a request from counsel for Thyssen not to respond to the Department's antidumping duty questionnaire on grounds that Thyssen accounted for an insignificant percentage of the carbon steel plate sales to the U.S. over the review period. The Department analyzed export sales data provided by the three principal FRG carbon steel plate producers and decided to investigate only Dillinger, since it produced approximately 88 percent of the exports to the United States. Accordingly, the estimated weighted-average margin for Dillinger applies equally to Thyssen and all other manufacturers, producers and exporters of carbon steel plate from the FRG.

In accordance with our normal practice, we requested a response from Dillinger within 30 days. On June 15, 1984, we received a letter from counsel for Dillinger requesting additional time to respond because of the complexities involved in responding to the cost of production section of the questionnaire. An extension was granted to July 10, 1984. Due to the large number of sale transactions, we instructed Dillinger to report its home market sales transactions both in hard copy (i.e., printed form) and on computer tape in the format outlined in our questionnaire. We received Dillinger's response to our questionnaire on July 9, 1984. However, there were deficiencies in the submitted computer tape and subject matter in the narrative submission for which we requested clarification and additional information. Additional information and

a revised computer tape were supplied by respondent at our request between August 6 and August 22, 1984. Difficulties with the original computer tape and the narrative portion of the response were resolved.

**Scope of Investigation**

The merchandise covered by this investigation is hot-rolled carbon steel plate. Hot-rolled carbon steel plate is classified under item numbers 807.6620 and 807.6625 of the *Tariff Schedules of the United States Annotated* (TSUSA), which covers flat-rolled carbon steel products, whether or not corrugated or crimped; not pickled; not cold-rolled; not in coils; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; 0.1875 inch or more in thickness and over 8 inches in width.

Semi-finished products of solid rectangular cross sections with a width at least four times the thickness and processed only through primary mill hot-rolling are not included.

**Fair Value Comparisons**

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

**United States Price**

As provided in section 772 of the Act, we used the purchase price of the subject merchandise to represent the United States price for sales by Dillinger because the merchandise was sold to unrelated purchasers prior to its importation into the United States. We calculated the purchase price based on the C.&F., unpacked price to unrelated customers in the United States. We made deductions for foreign inland freight and ocean freight.

**Foreign Market Value**

In accordance with section 773(a)(1)(A) of the Act, we calculated foreign market value based on Dillinger's home market sales. We compared identical merchandise where possible. Where no identical merchandise was sold in the home market, in accordance with section 771(16) of the Act, we made comparisons based on plate type, grade and dimensional categories selected by a Commerce Department industry expert. The petitioner alleged that sales in the home market were at prices below the cost of producing carbon steel plate. We examined production costs which included all appropriate costs for materials, fabrication and general

expenses. An insignificant amount of sales in the home market were found to be made below the cost of production (less than 0.1%). Accordingly, sufficient sales of carbon steel plate were made in the home market to form a basis for four value comparisons. We calculated the home market prices on the basis of the F.O.B., delivered, unpacked prices to unrelated purchasers. From these prices, we deducted foreign inland freight. In accordance with § 353.15 of our regulations (19 CFR 353.15), we made a circumstance of sale adjustment for differences in credit expenses. Since the merchandise subject to this investigation was sold unpacked in both markets, no adjustment was made for packing. For purposes of our final determination, we intend to seek additional information to further delineate the product groupings used in our comparisons.

#### Verification

As provided in section 773(a) of the Act, we will verify all information used in reaching our final determination.

#### Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of carbon steel plate from the FRG as described in the "Scope of the Investigation" section of this notice. This suspension of liquidation applies to all the subject merchandise entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amounts by which the foreign market value of the merchandise subject to this investigation exceeds the United States price, which was 1.97 percent. This suspension of liquidation will remain in effect until further notice.

#### ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure,

or threaten material injury to, a U.S. regional industry before the later of 120 days after we make our preliminary affirmative determination or 45 days after we make a final affirmative determination.

#### Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on October 29, 1984, at the United States Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099, at the above address within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by October 16, 1984. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Dated: October 1, 1984.

Alan F. Holmer,  
Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-20643 Filed 10-5-84; 8:45 am]  
BILLING CODE 3510-DS-M

## COMMODITY FUTURES TRADING COMMISSION

### Performance of Registration Functions by National Futures Association

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice and Order authorizing National Futures Association ("NFA") to perform certain portions of the registration functions of the Commodity Futures Trading Commission ("Commission") applicable to futures commission merchants, commodity pool operators, commodity trading advisors, and their associated persons.

**SUMMARY:** The Commission is authorizing NFA to assume, no later than December 31, 1984, the processing and granting of applications for initial

and renewed registration of futures commission merchants, commodity pool operators, commodity trading advisors and their associated persons and the issuance of temporary licenses to eligible associated persons, in accordance with the standards established by the Commodity Exchange Act ("Act") and Commission regulations thereunder, as implemented by NFA's rules approved by the Commission that govern the administration of these registration functions. The Commission is not at this time authorizing NFA to grant conditional registrations to these categories of registrants or to deny or take any other adverse action with respect to such registrations. This Order also does not authorize NFA to accept or act upon requests for exemption or withdrawal from registration or to render "no-action" opinions with respect to the applicable registration requirements.

**EFFECTIVE DATE:** December 31, 1984, or at such earlier time as the Commission may authorize by appropriate advance notice.

**FOR FURTHER INFORMATION CONTACT:** Linda Kurjan, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8955.

**SUPPLEMENTARY INFORMATION:** On September 28, 1984, the Commission issued the following Order to authorize NFA to assume the performance of additional registration functions on behalf of the Commission. In a separate action published elsewhere today in the Federal Register, the Commission is amending its regulations to facilitate the transfer of registration functions. Specifically, Part 3 of the Commission's regulations governing registration under the Act, 17 CFR Part 3, is being amended to make clear, among other things, that applications and related documents must be filed with NFA as NFA directs rather than directly with the Commission. Similarly, fees for registration specified by NFA and approved by the Commission will be remitted to NFA as NFA directs.\*

\*As previously approved by the Commission, NFA's rules require that each application for registration as an AP in any capacity (Form 8-R) be accompanied by a fee of \$30. Appendix A, § 1(e) under Bylaw 395. NFA has submitted for Commission review and approval a proposal specifying registration application fees for FCMs, CPOs and CTAs. NFA's proposed fees are the same or lower than those currently charged by the Commission. For example, the basic fee to accompany initial applications for registration would be \$250 for FCMs (the Commission now requires \$275) and \$50 for CPOs and CTAs (no change from the Commission requirement).

Registration documents filed with NFA in any category for which NFA is responsible will be deemed to be filed with the Commission, and a specific rule has been adopted to this effect. Requests for exemption or withdrawal from registration, however, will continue to be processed by the Commission. As noted above, NFA is not authorized to accept or act upon such requests or requests for "no action" opinions with respect to the applicable registration requirements under the Act or Commission regulations. The Commission is also amending its regulations governing requests for Commission records and information to provide that those portions of registration forms which are designated as being publicly available will be made available for disclosure, inspection and copying directly through NFA upon request from members of the public.

**United States of America, Before the  
Commodity Futures Trading  
Commission**

***Order Authorizing the Performance of  
Registration Functions***

The Commodity Futures Trading Commission ("Commission") previously has issued Orders authorizing National Futures Association ("NFA"), pursuant to section 8a(10) of the Commodity Exchange Act ("Act"), to perform various portions of the Commission's registration functions and responsibilities under the Act.<sup>1</sup> Under such Orders, NFA processes and grants registration applications to introducing brokers ("IBs") and their associated persons ("APs")<sup>2</sup> as well as issues temporary licenses to the APs of those IBs.<sup>3</sup> NFA has also been authorized to assist the Commission in processing, on Commission premises, temporary licenses for other categories of associated persons.<sup>4</sup> In connection with the contemplated transfer of additional registration processing functions to NFA, the Commission further has authorized NFA to distribute throughout the year the expiration dates of the registrations NFA grants pursuant to

Commission authorization.<sup>5</sup> The Commission has not yet, however, authorized NFA to refuse to register, to register conditionally, to suspend or place restrictions upon a registration or to revoke a registration in connection with any registrations for which NFA performs the above functions. NFA also is not authorized to accept or to act upon requests for exemption or withdrawal from registration or to render "no action" opinions with respect to the applicable registration requirements. The Commission, therefore, intends to continue to perform these functions until such time as they may be transferred to NFA.

**Assumption of Registration Functions**

NFA has made commitments to the Commission to assume responsibility, no later than December 31, 1984, for the registration under the Act of six categories of registrants in addition to introducing brokers and their associated persons—specifically, futures commission merchants ("FCMs"), commodity pool operators ("CPOs"), commodity trading advisors ("CTAs"), and APs of such registrants.<sup>6</sup> The Commission has now determined, pursuant to its authority under section 8a(10) of the Act, to authorize NFA to assume responsibility under the Act on or before December 31, 1984, for performing the registration functions described in this Order<sup>7</sup> and, in connection therewith, supporting the Commission's performance of various associated responsibilities under the Act.<sup>8</sup> NFA has undertaken to begin by

that date to process and, in appropriate cases, grant registration applications for FCMs, CPOs, CTAs and APs of those registrants and to issue temporary licenses to eligible APs in accordance with the standards established by the Act, the Commission's regulations thereunder and NFA bylaws approved or reviewed by the Commission under Section 17(j) of the Act<sup>9</sup> governing registration ("NFA Registration Rules"). As provided in a prior Commission Order, NFA's authority to distribute the dates for expiration of the registration of FCMs, CPOs and CTAs will be extended to those categories of registrant concurrently with the effective date of the transfer to NFA of the responsibility to register such categories.<sup>10</sup> Subject to Commission review and approval pursuant to section 17(j) of the Act, NFA may charge registration fees to defray reasonable expenses incurred by NFA in processing the registration applications.

Although NFA previously adopted procedures similar to those in Commission regulation 3.20, 17 CFR 3.20, for denial and revocation of registration, as well as procedures for conditionally registering applicants, NFA's procedures may not be implemented until such later time as the Commission authorizes NFA to refuse to register, to register conditionally, to suspend or place restrictions upon a registration or to revoke a registration.<sup>11</sup> In the absence of such authority, except with respect to such categories of statutory disqualification and in such circumstances as may be specified to NFA by the Commission or authorized staff, NFA shall forward to the Commission the entire registration file (or such portion as the Commission or its staff may request) of any applicant, registrant or principal thereof ("Applicant") which appears to be subject to a statutory disqualification and NFA shall not take any final action with respect to such applicant except in

<sup>5</sup> 48 FR 51809 (November 14, 1983).

<sup>6</sup> Letter to Molly Bayley, Executive Director of the Commission, from Glenn Windstrup, NFA Project Manager, dated July 19, 1984. See also letters to Andrea M. Corcoran, Director of the Commission's Division of Trading and Markets, from Robert K. Wilmoth, NFA President, dated June 13, 1983 and May 7, 1984, and from Joseph H. Harrison, Jr., NFA General Counsel, dated May 14, 1984.

<sup>7</sup> Section 17(o)(1) of the Act separately authorizes the Commission to require a futures association registered under the Act to perform the Commission's registration functions with respect to association members and associated persons of such members. 7 U.S.C. 21(j) [1982]. NFA is the only futures association registered under the Act. Its members include—with certain limited exceptions—all registered FCMs, IBs, CPOs and CTAs. In light of NFA's commitments and undertakings cited in this Order, it does not appear to the Commission to be necessary at this time to exercise its authority affirmatively to require NFA to perform these registration functions.

<sup>8</sup> The registration program supports such other Commission responsibilities as enforcement activities, administration of the reparations program, and cooperative efforts with state and other federal law enforcement agencies.

<sup>9</sup> 7 U.S.C. 21(j) [1982].

<sup>10</sup> See 48 FR 51809 (November 14, 1983).

<sup>11</sup> Although NFA has not been authorized to take any of the listed adverse actions with respect to a registration or an application for registration, NFA may, of course, notify an applicant, registrant or principal thereof ("Applicant") of deficiencies in the application and maintain that application as pending until the applicant corrects the deficiencies to NFA's satisfaction. NFA may also, after reasonable notice to the Applicant, deem an application withdrawn in the event the Applicant does not, in response to such notice, either correct the deficiencies within a reasonable time or refuse to correct those deficiencies and request continued consideration of the application. In the latter event NFA shall forward the Applicant's file to the Commission for its consideration and shall take no further action with respect to the application except in accordance with written instructions from the Commission or authorized staff.

<sup>1</sup> Section 8a(10) of the Act authorizes the Commission to authorize any person to perform any portion of the registration functions under the Act in accordance with rules, notwithstanding any other provision of law, submitted by the person to the Commission and subject to the provisions of the Act applicable to registrations granted by the Commission. 7 U.S.C. 12a(10) [1982].

<sup>2</sup> See 48 FR 15990 (April 13, 1983) and 48 FR 35158 (August 3, 1983).

<sup>3</sup> See 49 FR 8228 (March 5, 1984), effective May 31, 1984 (49 FR 20478 (May 15, 1984)).

<sup>4</sup> See note 3 *supra*. The other categories are APs of futures commission merchants, APs of commodity pool operators and APs of commodity trading advisors.



accordance with written instructions from the Commission or authorized staff. NFA shall make all reasonable efforts to determine whether an Applicant is subject to a statutory disqualification arising from or evidenced by a public record of any court or governmental agency. In those cases where it appears to NFA that further investigation may be necessary or appropriate to determine whether an Applicant may be subject to a statutory disqualification, NFA, after having conducted any such investigation as NFA may deem appropriate to conduct, shall forward the entire registration file (or such portion as the Commission or its staff may request) to the Commission along with any information related thereto which NFA may have. NFA shall not take any final action with respect to such Applicant except in accordance with written instructions from the Commission or authorized staff.

#### Pending Applications: Personnel and Costs

NFA has undertaken to assume registration responsibility for the named categories of registrants on or before December 31, 1984. If NFA is operating its own registration system on the transfer date, any application for registration, including for a temporary license, which is pending with the Commission on that date ("pendings") shall be transferred to and be processed by NFA if NFA asks to assume responsibility for such pendings. Unless so requested by NFA, the Commission will continue to process pendings. To the extent that the Commission continues such processing, NFA shall continue to assign NFA personnel to assist the Commission to complete the processing of those applications for temporary licenses that are pending on the transfer date, the responsibility for which was previously delegated to NFA. In addition, NFA shall be responsible for the payment of non-personnel costs attributable to the processing by the Commission of applications which have been pending 90 days or less on the transfer date from December 31, 1984, until such applications have been completely processed or are transferred to NFA.

If, on the other hand, NFA does not implement its own system on the transfer date but proceeds at that time to operate the Commission's registration system on Commission premises, NFA shall take responsibility for processing all applications then pending as well as all applications and other registration materials subsequently received. NFA shall also be responsible for staffing the registration program and for paying the

costs attributable to its operations.<sup>12</sup> Moreover, NFA shall be required to proceed to complete the conversion of the registration program to its own system as soon as practicable thereafter but, in any event, no later than September 30, 1985.

#### Custody of Records; Confidentiality and Disclosure

In performing Commission registration functions pursuant to this and other applicable Commission Orders, NFA shall maintain a system of records on behalf of the Commission and shall serve as the official custodian of those Commission records. Any document that an Applicant files with NFA pursuant to registration requirements in the Act, the Commission's regulations or those NFA Registration Rules that implement such requirements or regulations shall be deemed filed with the Commission, and shall be the official record of the Commission thereof, for all purposes.<sup>13</sup> NFA shall be responsible for the receipt, processing, storage and recording of all registration records regarding FCMs, CPOs, CTAs, IBs and their APs which are transferred to NFA from the Commission or are received or compiled by NFA in the performance of the registration functions authorized by this and other applicable Commission Orders.<sup>14</sup> This Order, which is issued

<sup>12</sup>NFA shall also indemnify the Commission in accordance with terms and conditions acceptable to the Commission against any injury that may be caused by the act or omission of NFA's employees in performing any of the registration functions covered by this or other applicable Commission Orders.

<sup>13</sup>Registration records maintained on behalf of the Commission by NFA will include documents filed with NFA by any Applicant pursuant to registration requirements in the Act, the Commission's regulations or those NFA Registration Rules that implement such requirements or regulations (and any computer record generated by such documents) as well as hardcopy (paper) and computer records maintained by the Commission as of the date of transfer. Commission hardcopy and computer records generated prior to commencement of processing by NFA will be transferred from the Commission to NFA.

<sup>14</sup>This system of registration records shall include applications for registration (Forms 7-R, 8-R, 8-S, and 3-R (Part II) and any such substitute, predecessor or replacement forms approved by the Commission) and biographical supplements (Form 8-R and any such substitute, predecessor or replacement form approved by the Commission), schedules and supplementary attachments to those forms (including financial reports, statements and agreements required to be filed with initial applications for registration under Commission regulations 1.10 and 1.17, 17 CFR 1.10 and 1.17), fingerprint cards, Supplemental Statements (Form 3-R and any such substitute, predecessor or replacement form approved by the Commission), Notices of Termination (Form 8-T and any such substitute, predecessor or replacement form approved by the Commission), correspondence relating to registration between the Commission or NFA and the Applicant, and reports reflecting

under seal,<sup>15</sup> shall constitute Commission certification that NFA has the official capacity to maintain the registration records of the agency and to certify as to their maintenance, authenticity and completeness. In this connection, NFA has undertaken to provide timely such certifications, affidavits, and testimony as may be necessary to authenticate documents and information contained in the registration records for which NFA has custody upon request of the Commission or its staff,<sup>16</sup> and in conjunction with requests of other federal, state or local officials and with subpoenas or other appropriate document requests by private parties.<sup>17</sup> In addition to information retained or compiled in computer files, NFA must also retain records transferred to NFA and all applications for registration and related documents, including fingerprint cards, filed by or on behalf of prospective and current Applicants and on behalf of such persons whose registration status becomes inactive subsequent to the transfer date or for whom hardcopy records have not been retired by the Commission at the date of transfer. All such records—whether in hardcopy, computer memory, computer printout, microfiche or any other form—must be maintained in a secure manner with access to the files and data appropriately limited to official purposes in accordance with reasonable procedures acceptable to the Commission and must be readily accessible unless the person to whom such files and data relate has been inactive for all purposes for three years. Registration records shall be retained and disposed of in accordance with reasonable procedures acceptable to the Commission,<sup>18</sup> and retired files must be

information developed from sources outside the Commission or NFA (e.g., the Securities and Exchange Commission and the Federal Bureau of Investigation) and related to fitness for registration or affiliation.

<sup>15</sup>Section 2a(10) of the Act provides that the official seal of the Commission shall be judicially noticed. 7 U.S.C. 4a(j) (1922).

<sup>16</sup>With respect to such requests by the Commission or its staff, all NFA expenses in conjunction with providing certifications, affidavits or testimony shall be borne by NFA.

<sup>17</sup>The Commission's Administrative Law Judges will take notice that registration records maintained by NFA are, in fact, official government records. See, e.g., 17 CFR 10.67.

<sup>18</sup>Applications and biographical supplements, related documents and correspondence shall be retained for 10 years after the individual's or firm's registration or, in the case of a principal, that of the firm with which the individual is affiliated expires or otherwise becomes inactive; after that period, those hardcopy records may be destroyed. Computer records shall be maintained and updated

Continued

retained at a location in accordance with procedures that are acceptable to the National Archives and Records Service, as necessary, as well as to the Commission.

NFA shall provide the Commission and Commission staff with prompt access to these registration records, including on-line or equivalent access to query NFA's computer system<sup>19</sup> as well as access to the original registration documents and copies thereof (including, as necessary, certified copies in accordance with reasonable procedures acceptable to the Commission.<sup>20</sup> Furthermore, NFA shall, as promptly as possible, provide the Commission with identification of the elements of data stored in computer files, the manner of storage, and methods of updating and retrieval, as well as any changes in such elements, structure of files and computer procedures, as they from time to time occur. In addition, NFA shall provide the Commission as promptly as possible with statistics and reasonable reports as specified in Appendix A hereto without charge, although the Commission understands that certain of such reports shall be developed during calendar year 1985. Other reports, new formats or sort criteria shall be developed by NFA at the Commission's request, for which the Commission will pay to NFA a mutually agreeable price.

NFA, its officers, employees and agents shall disclose to and, as appropriate, make available for inspection and copying<sup>21</sup> upon reasonable request by third parties to the following information contained in public portions of the Commission's records furnished to, compiled or maintained by NFA in connection with

periodically as long as the individual or firm remains pending for registration, registered, or affiliated with a registrant. Microfiche records, when produced, shall be maintained permanently.

<sup>19</sup>NFA shall make available to the Commission six communication ports to NFA's computer system wherever located, of which two ports shall be provided without charge (one for the Commission's Washington offices and one for its Chicago offices). Each port shall be available for up to 16 terminals, and NFA shall support three terminals and one high-speed printer at each of the Washington and Chicago locations at no charge to the Commission.

<sup>20</sup>Such procedures shall establish, among other things, that NFA shall provide the Commission with any documents or information that would be responsive to a subpoena within 24 hours of the Commission's request for access to such responsive documents or information for within such longer period as practicable under the circumstances for the Commission to assure compliance).

<sup>21</sup>NFA may adopt and charge reasonable fees for locating and copying any publicly available documents in the registration records for a requester. Any such fee adopted by NFA must be submitted to the Commission for approval in accordance with section 17(j) of the Act. See also 31 U.S.C. 9701 (1982) and OMB Circular No. A-25.

its performance of registration functions under the Act:

1a. The registration status of any Applicant for registration; and

2a. The publicly available portions of registration forms, including financial information forms required to be filed with initial registration applications.

NFA, its officers, employees and agents shall ensure the confidentiality of those nonpublic portions of the Commission's records furnished to, compiled or maintained by NFA in connection with its performance of registration functions under the Act and shall not disclose such information to third parties<sup>22</sup> except in the following circumstances and in accordance with NFA Registration Rules submitted to and approved by the Commission, which rules will not be approved to the extent that they are inconsistent with or broader than the Commission's regulations and routine uses promulgated under the Privacy Act of 1974:<sup>23</sup>

1b. To any person with whom an Applicant is or plans to be associated as an associated person or affiliated as a principal, provided that the person requesting the information makes an appropriate showing to NFA that the requester is the employer or prospective employer of the particular Applicant;

2b. To any futures commission merchant with whom an applicant or registered introducing broker has or plans to enter a guarantee agreement under Commission regulation 1.10, 17 CFR 1.10, provides that the applicant or registrant consents to such disclosure in writing and identifies the person to whom the information may be disclosed and that the futures commission merchant makes an appropriate showing of its identity;

3b. To boards of trade designated as contract markets or to any other futures association registered with the Commission, to assist those organizations in carrying out their responsibilities under the Act, or to national securities exchanges or national securities associations registered with the Securities and

<sup>22</sup>For purposes of this paragraph regarding the disclosure of nonpublic portions of the Commission's records, the term "third parties" shall not be construed to include the Commission or its staff. Thus, NFA shall be able to disclose, without restriction, any or all such information to the members and employees of the Commission who need or request the information in the performance of their duties.

<sup>23</sup>In this regard, NFA shall take special precautions to protect any information which appears in these registration records but which, by its nature, is among the types of information described in sections 8(a), 8(e) and 8a(f) of the Act, so that any such information will not be disclosed inadvertently or without authority.

Exchange Commission, to assist those organizations in carrying out their responsibilities under the Securities Exchange Act of 1934, provided that, if NFA knows or has reason to believe that a request is made in connection with a formal or apparent investigation or proceeding, NFA notifies the Commission regarding the request;

4b. To federal, state or local law enforcement or regulatory agencies acting within the scope of their jurisdiction or for their use in meeting responsibilities assigned to them under law (to the same extent that the Commission may disclose such registration information under sections 8(e) and 8(g) of the Act<sup>24</sup> provided that, if NFA knows or has reason to believe that a request is made in connection with a formal or apparent investigation or proceeding, NFA notifies the Commission regarding the request;

5b. Pursuant to an order of a court of competent jurisdiction; and

6b. Otherwise with the authorization of the Director of the Division of Trading and Markets, the Director of the Division of Enforcement, the Director of the Division of Economic Analysis, the General Counsel, or the Executive Director, or in that person's absence the appropriate designated staff member, in accordance with Commission regulations.

All other requests for access to the nonpublic portions of the records furnished to, compiled or maintained by NFA in connection with its performance of the Commission's registration functions shall be forwarded promptly to the Commission in accordance with reasonable procedures acceptable to the Commission for its consideration and action pursuant to applicable provisions of the Act and the Commission's regulations.<sup>25</sup>

NFA shall implement procedures to ensure the security and integrity of this system of records; facilitate disclosure when permitted as described above or by other Commission rules or subsequent Orders; keep, in accordance with reasonable procedures acceptable to the Commission, adequate and readily accessible records of the types of disclosures of nonpublic information made, of the requesters therefor and of

<sup>24</sup>7 U.S.C. 12(e) and 12(g) (1982).

<sup>25</sup>In the event that NFA receives a subpoena for nonpublic portions of Commission registration records maintained by NFA, NFA shall notify the Commission without delay and provide the Commission with any documents or information that would be responsive to the subpoena within 24 hours of receipt of the subpoena (or within such longer period as practicable under the circumstances for the Commission to take appropriate action).

any required release authorizations; and otherwise safeguard the confidentiality of the records. Such procedures must be consistent with the procedures enumerated in Parts 145 and 146 of the Commission's regulations as amended from time to time,<sup>26</sup> including the maintenance of an inventory (and related statistics) of all nonpublic information disclosed pursuant to paragraphs 1b through 6b above. Such inventory shall include, among other items, the identity of the person requesting the information, a summary or description of the information disclosed and the date that the disclosure was made.

#### Conclusion and Order

Based upon NFA's commitments and the congressional intent that NFA assume responsibility under the Act for the registration of FCMs, CPOs, CTAs, and their APs, NFA's representations concerning the adoption of rules, standards and procedures to be followed in administering these functions, and the need that these functions be performed in the most efficient, cost-effective manner, the Commission has determined, in accordance with its authority under section 8a(10) of the Act, to authorize NFA on or before December 31, 1984, to process and grant applications for initial and renewed registration with the Commission of FCMs, CPOs, CTAs, and APs, of those three categories of registrants under the Act and the Commission's regulations thereunder,<sup>27</sup> to issue temporary licenses to eligible applicants for registration as an associated person,<sup>28</sup> and to maintain a system of records in connection with NFA's performance of the Commission's registration functions.

Issued and sealed by the Commission on October 1, 1984 in Washington, D.C.

Jean A. Webb,

*Acting Secretary of the Commission.*

Appendix A.—NFA Registration Reports Available to the Commission

**\*Pending and Deficient Report**—All registration applicants which are pending or deficient.

**\*Alphabetic Pending Report**—All pending applicants in alphabetic order.

**\*TL AP Pending Permanent Report**—APs in temporary licensed status within X days of converting to a registered status (in

alphabetic sequence by firm) and reason not yet converted.

**\*Pending Statistic Report**—All firms in any selected class in numeric identification number sequence with associated primary firm name registration status in that class.

**\*Fitness Check Report**—All individuals and firms with fitness investigations in process, in alphabetic sequence.

**\*Social Security Report**—All individuals (active, inactive, pending, deficient and hold) who are in the registration system, by social security number.

**Statistical Report**—Number of individuals and firms registered (initial registration, renewals and transfers) by class and timeframe.

**Cross-Reference Report**—All registration applicant names and their assigned identification numbers, in either numeric or alphabetic (name order) sequence.

**Firm Cross-Reference Report**—All firms in any selected class in alphabetic sequence with their associated identifying number and registration status in that class.

**Numeric Cross-Reference Report**—All firms in any selected class in numeric identification number sequence with registration status in that class.

**Combined Alphabetic Director of All Firms**—All firms in alphabetic sequence, by registration classes.

**Alphabetic Directors of FCMs, CTAs, CPOs, IBs, and APs**—Registrants by class with address and exchange memberships where appropriate.

**Geographic Directory**—Firms and their branch offices in alphabetic sequence by state and city.

**State Count Report**—Number of industry professionals employed in each state, by class.

**AP by FCM, IB, CTA, and CPO Reports**—All APs in registered, temporary licensed, and pending status, in alphabetic sequence, by firm and within firm by AP name.

**\*\*GDHF (Surveillance) Report**—All statutory disqualifications from registration and disciplinary history on file, in alphabetic sequence by individual.

**Expiration Report**—Firms (and their APs) and individuals whose registrations have expired, in alphabetic sequence by one or all classes.

**\*\*\*Commodity Pool Name Report**—All Commodity Pools in alphabetic sequence.

**\*\*\*Newsletter Name Report**—All newsletters and advisory services in alphabetic sequence.

#### Footnotes

<sup>26</sup> Upon the transfer date, NFA must be able to generate, at a minimum, the reports identified by asterisks. The remaining reports (or necessary enhancements) must be developed and become available during calendar year 1985.

<sup>27</sup> Initially the GDHF Report may be provided in NFA identification number sequence by individual rather than in alphabetic sequence.

<sup>28</sup> The information which would be included in a Commodity Pool Name Report or a Newsletter Name Report may initially be

available through an inquiry mechanism rather than in report form.

[FR D-2, 04-23313 Filed 10-5-84; 8:45 am]

BILLING CODE 4351-01-M

## DEPARTMENT OF DEFENSE

### Department of the Navy

#### Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Naval Surface Weapons Center (NSWC) Review Team of the Naval Research Advisory Committee (NRAC) Panel on Laboratory Oversight will meet on October 24–25, 1984, at the Naval Surface Weapons Center, Dahlgren, Virginia. Sessions of the meeting will commence at 8:30 a.m. and terminate at 5:00 p.m. on October 24 and 25, 1984. The entire meeting will be closed to the public.

The purpose of the meeting is to examine the scientific, technical and engineering health of NSWC. The entire meeting will consist of classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. The Secretary of the Navy therefore has determined in writing that the public interest requires that the entire meeting be closed to the public because they will be concerned with matters listed in sections 552(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander M.B. Kelly, U.S. Navy, Office of Naval Research (Code 100N) 800 North Quincy Street, Arlington, VA 22217, Telephone number (202) 696-4870.

Dated: October 4, 1984.

William F. Roos, Jr.,

*Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.*

[FR D-2, 04-23313 Filed 10-5-84; 8:45 am]

BILLING CODE 3810-AE-M

#### Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Naval Weapons Center (NWC) Review Team of the Naval Research

<sup>26</sup> 17 CFR Parts 145, 146.

<sup>27</sup> Nothing in this Order or section 17 or 8a(10) of the Act shall affect the Commission's authority to review the granting of a registration application by NFA in the performance of Commission registration functions. See section 17(o)(3) of the Act, 7 U.S.C. 21(o)(3) (1982).

<sup>28</sup> *Id.*

Advisory Committee (NRAC) Panel on Laboratory Oversight will meet on October 24-26, 1984, at the Naval Weapons Center, China Lake, California. The first sessions of the meeting will commence at 8:00 a.m. and terminate at 5:30 p.m. on October 24, 1984. The second session will commence at 8:00 a.m. and terminate at 5:30 p.m. on October 25, 1984. The third session will commence at 8:00 a.m. and terminate at 12:00 noon on October 26, 1984. All sessions will be closed to the public.

The purpose of the meeting is to examine the scientific, technical and engineering health of NWC. These matters constitute classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander M. B. Kelly, U.S. Navy, Office of Naval Research (Code 100N) 800 North Quincy Street, Arlington, VA 22217, Telephone number (202) 696-4870.

Dated: October 3, 1984.

William F. Roos, Jr.,

*Lieutenant, JAGC, U.S. Naval Reserve,  
Federal Register Liaison Officer.*

[FR Doc. 84-26689 Filed 10-5-84; 8:45 am]

BILLING CODE 3810-AE-M

## DEPARTMENT OF ENERGY

### Office of the Secretary

#### National Petroleum Council, U.S. Petroleum Refining Coordinating Subcommittee on U.S. Petroleum Refining; Meeting

Notice is hereby given that the Coordinating Subcommittee on the U.S. Petroleum Refining will meet in October 1984. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Coordinating Subcommittee on the U.S. Petroleum Refining will address previous Council refining studies and evaluate future refinery operations and their impact on petroleum markets. Its analysis and findings will be based on information and data to be gathered by the various task groups.

The U.S. Petroleum Refining Coordinating Subcommittee will hold its first meeting on Thursday, October 4,

1984, starting at 9:00 a.m., in the Whitney Room of the Four Seasons Hotel, 1300 Lamar Street, Houston, Texas.

The tentative agenda for the U.S. Petroleum Refining Coordinating Subcommittee meeting is as follows:

1. Discuss the scope of the study to be conducted in response to the Secretary of Energy's request for an analysis of the factors affecting domestic refining.
2. Discuss an organizational structure for the study.
3. Discuss a timetable for completion of the study.
4. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the U.S. Petroleum Refining Coordinating Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the U.S. Petroleum Refining Coordinating Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Ms. Carolyn Klym, Office of Oil, Gas, Shale and Coal Liquids, Fossil Energy, 301/353-2709, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on September 26, 1984.

Donald L. Bauer,

*Acting Assistant Secretary, Fossil Energy.*

[FR Doc. 84-26588 Filed 10-5-84; 8:45 am]

BILLING CODE 6450-01-M

### Energy Information Administration

#### Changes to DOE Energy Information Reporting and Recordkeeping Requirements

**AGENCY:** Energy Information Administration, DOE.

**ACTION:** Notice of changes to the inventory of energy information reporting and recordkeeping requirements.

**SUMMARY:** The Energy Information Administration (EIA) of the Department

of Energy (DOE) hereby gives notice to respondents and other interested parties of changes to the inventory of current information collections as defined in the Paperwork Reduction Act of 1980 (Pub. L. 96-511), for which EIA is responsible. DOE management and procurement assistance collections, which are the responsibility of the Office of Management and Administration, will no longer be included in these notices.

The listing that follows this notice indicates changes made during the quarter from April 2, 1984, through July 1, 1984, to the October 1, 1984, inventory of DOE information collections originally published in the Federal Register, 48 FR 55160 (December 9, 1983). Changes made during the quarter from October 2, 1983, to January 1, 1984, were published in the Federal Register, 49 FR 6969 (February 24, 1984); changes made during the quarter from January 2, 1984, to April 1, 1984, were published in the Federal Register 49 FR 21983 (May 24, 1984). The listing includes new information collections approved by the Office of Management and Budget (OMB), collections extended, reinstated, discontinued or allowed to expire, and changes to continuing information collections. For each new requirement, requirement extension, or requirement reinstatement, the current DOE control or form number, the title, and the OMB control number and approval expiration date are listed by DOE sponsoring office. For the list of discontinued requirements, the discontinued date is shown instead of the expiration date. If applicable, the appropriate Code of Federal Regulations citation is also listed. Information collections not utilizing structured forms are designated by an asterisk (\*) placed to the right of the control or form number.

#### FOR FURTHER INFORMATION CONTACT:

Carolyn Sinclair, EI-73, Energy Information Administration, Mail Stop 1H-023, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2313.

Information on the availability of single, blank information copies of those collections utilizing structured forms may be obtained by contacting the National Energy Information Center, EI-22, Forrestal Building, U.S. Department of Energy, Washington, D.C. 20585, (202) 252-8800.

Issued in Washington, D.C., October 1, 1984.

J. Erich Evered,

*Administrator, Energy Information Administration.*

## NEW DOE ENERGY INFORMATION COLLECTIONS APPROVED BY OMB

DOE No.	Title	OMB control No.	Expiration date	CFR citation
<b>Energy Information Administration</b>				
EIA-856	Monthly Foreign Crude Oil Acquisition Report	19020156	03-31-87	
<b>Federal Energy Regulatory Commission</b>				
FERC-579	State Implementation of PURPA 210—Cogeneration and Small Power Production	19020133	08-31-85	18 CFR 232.401.
FERC-582 <sup>1</sup>	FERC Fees Filing Requirement and Waivers	19020132	04-30-87	18 CFR 331.106.

<sup>1</sup> Indicates that no structured form is used in the collection.

## DOE ENERGY INFORMATION COLLECTIONS EXTENDED

DOE No.	Title	OMB control No.	Expiration date	CFR Citation
<b>Economic Regulatory Administration</b>				
ERA-330R	Electric Utility Conservation Plan	19020078	10-31-84	
<b>Energy Information Administration</b>				
EIA-141	National Survey of Fuel Purchases for Vehicles—Purchase Log and Supplementary Questionnaire	19050063	01-31-86	
EIA-176	Annual Report of Natural Gas Supply and Disposition	19050147	03-31-85	
EIA-182	Domestic Crude Oil First Purchase Report	19050143	06-30-85	
EIA-429	National Survey of Fuel Purchases For Vehicles—Background Questionnaire	19050066	01-31-86	
<b>Federal Energy Regulatory Commission</b>				
FERC-11	Natural Gas Pipeline Company Monthly Statement	19020032	10-31-84	18 CFR 260.3.
FERC-15	Interstate Pipeline Annual Report of Gas Supply	19020037	11-30-84	18 CFR 250.7.
FERC-16	Report of Gas Supply and Requirements	19020025	10-31-84	18 CFR 250.12.
FERC-42	Application For Annual Or Basic Valuation	19020033	10-31-84	18 CFR 345.
FERC-500 <sup>1</sup>	Major Hydroelectric License—Application	19020058	12-31-84	18 CFR 4 Subpart F.
FERC-505 <sup>1</sup>	Application for Licenses for Water Power Projects 5MW or Less	19020115	01-31-85	18 CFR 4 Subpart G.
FERC-512 <sup>1</sup>	Application for Preliminary Permit	19020073	06-30-85	18 CFR 4.30.
FERC-516 <sup>1</sup>	Electric Rate Schedule Filings	19020096	11-30-85	18 CFR 35 Subpart A, 35.12, 35.13, 35.14.
FERC-539 <sup>1</sup>	Gas Pipeline Certificate: Import/Export Related	19020062	04-30-85	18 CFR 153.
FERC-550 <sup>1</sup>	Oil Pipeline: Tariff Filings	19020083	05-31-86	49 CFR 1300.
FERC-558 <sup>1</sup>	Contract Summary For Applicants For Certificates Of Public Convenience And Necessity	19020109	07-31-87	18 CFR 250.5.
FERC-559 <sup>1</sup>	Independent Producer Rate Change Or Initial Billing Statement	19020036	07-31-87	18 CFR 250.14.
FERC-581 <sup>1</sup>	Management and Procurement Reporting and Recordkeeping Requirements	19020130	03-31-87	18 CFR 125.3, 225.3, 356.3.

<sup>1</sup> Indicates that no structured form is used in the collection.

## REINSTATED DOE ENERGY INFORMATION COLLECTIONS

DOE No.	Title	OMB control No.	Expiration date	CFR citation
<b>Conservation and Renewable Energy</b>				
CE-189C	Industrial Energy Conservation Program for Energy Efficiency Improvement and Recovered Materials Utilization—Corporate Recovered Materials Utilization—Corporate Reporting Form	19040344	03-31-85	10 CFR 445.21, 22, 26.
CE-189P	Industrial Energy Conservation Program for Energy Efficiency Improvement and Recovered Materials Utilization—Plant Reporting Form	19040344	03-31-85	10 CFR 445.21, 22, 26.
CE-189S	Industrial Energy Conservation Program for Energy Efficiency Improvement and Recovered Materials Utilization—Sponsor Reporting Form	19040344	03-31-85	10 CFR 445.21, 22, 26.
<b>Federal Energy Regulatory Commission</b>				
EIA-767(1)	Steam-Electric Plant Operation and Design Report	19020034	12-31-86	18 CFR 141.59.
<b>International Affairs and Energy Emergencies</b>				
EIA-767(2)	Steam-Electric Plant Operation and Design Report	19010267	12-31-86	

## DOE ENERGY INFORMATION COLLECTIONS DISCONTINUED OR ALLOWED TO EXPIRE

DOE No.	Title	OMB control No.	Discontinued date	CFR citation
<b>Energy Information Administration</b>				
EIA-717	Annual Uranium Exploration Survey	19050131	04-30-84	
EIA-788A	Nonresidential Building Energy Consumption Survey—Original Building Form	19050145	06-30-84	
EIA-788B	Nonresidential Building Energy Consumption Survey—Update Building Form	19050145	06-30-84	

## DOE ENERGY INFORMATION COLLECTIONS DISCONTINUED OR ALLOWED TO EXPIRE—Continued

Doc No.	Title	OMB control No.	Discontin-ued date	CFR citation
Federal Energy Regulatory Commission				
FERC-533 <sup>1</sup>	Gas Producer Rate: Special Relief Petition	19020056	05-18-84	18 CFR 2.75-2.77.

<sup>1</sup> Indicates that no structured form is used in the collection.

## CHANGES IN CONTINUING DOE ENERGY INFORMATION COLLECTIONS

DOE No. as previously listed	Changes
FERC-500 <sup>1</sup>	Proposed rule change. Do. Do. Replaced by EIA-856.
FERC-505 <sup>1</sup>	
FERC-516 <sup>1</sup>	
EP-51	

<sup>1</sup> Indicates that no structured form is used in the collection.

[FR Doc. 84-26585 Filed 10-5-84; 8:45 am]

BILLING CODE 6450-01-M

## Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

## Correction

In FR Doc. 84-25205, beginning on page 37143 in the issue of Friday, September 21, 1984, make the following correction:

On page 37144, third column, in the "Listing of States by Region", New York should have appeared in Region B rather than Region A.

BILLING CODE 1505-01-M

## Federal Energy Regulatory Commission

[Docket No. ER84-693-000]

## Arkansas Power &amp; Light Co.; Filing

October 3, 1984.

The filing Company submits the following:

Take notice that on September 20, 1984, Arkansas Power & Light Company (AP&L) tendered for filing proposed changes in AP&L's Schedule FPC No. 69.

AP&L states that this Rate Schedule is a contract between the Company and the City of North Little Rock. The contract amendment filed provides for one additional metering point for the City. AP&L further states that it does not believe that the additional delivery point will have any material effect upon the billing and that no billing data was filed. The Company indicates that there will be no change in rates or provisions in the contract other than those noted above.

A copy of the filing has been mailed to the City of North Little Rock.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26623 Filed 10-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-186-001]

## Columbia Gas Transmission Corp.; Request Under Blanket Authorization

October 4, 1984.

Take notice that on September 25, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP84-186-001 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to extend the transportation of natural gas on behalf of Weyerhaeuser Company (Weyerhaeuser) under the certificate issued in Docket No. CP83-76-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia states that it began transporting gas to Weyerhaeuser's Mt. Vernon, Ohio, plant on November 3, 1983, pursuant to Section 157.209 of the Commission's Regulations for a term extending from November 3, 1983, through November 2, 1984. On January 10, 1984, Columbia filed a request for authorization, *inter alia*, to transport up

to 100 million Btu of natural gas per day on behalf of Weyerhaeuser, it is stated. The Commission issued a notice of Columbia's request on January 13, 1984, and, since no protest to the proposed transportation was filed with the Commission, Columbia was authorized to transport gas on behalf of Weyerhaeuser for the term of the transportation agreement which expires November 2, 1984, it is further stated.

Columbia states that Weyerhaeuser had requested that Columbia continue transporting the gas through June 30, 1985. Columbia explains that a new gas transportation agreement is being entered into which would provide for Columbia to continue transporting up to 100 million Btu of gas on behalf of Weyerhaeuser to its Mt. Vernon Plant through June 30, 1985. Columbia also avers that Columbia Gas of Ohio, Inc., the distribution company serving Weyerhaeuser, has indicated that it has the capacity to perform the transportation service without detriment or disadvantage to its other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-26625 Filed 10-5-84; 8:45 am]

BILLING CODE 6717-01-M



[Docket No. ER84-691-000]

**Dayton Power and Light Co.; Filing**

October 3, 1984.

The filing Company submits the following:

Take notice that on September 20, 1984, Dayton Power and Light Company (DP&L) tendered for filing an executed Service Agreement For Partial Requirements And/Or Transmission Wheeling Service To Municipalities For Resale (Service Agreement) between DP&L and the Village of Waynesfield, Ohio.

The proposed Service Agreement permits the Village of Waynesfield to receive partial requirements and transmission wheeling service from DP&L under its FERC Electric Tariff, Original Volume No. 2. The previous service agreement between DP&L and the Village of Waynesfield under which the Village of Waynesfield received service pursuant to DP&L's FERC Electric Tariff Original Volume No. 1, is superseded.

DP&L requests that the Commission waive its notice and filing requirements and permit the proposed Waynesfield Service Agreement to become effective November 1, 1984.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 16, 1984. Protests will be considered by the Commission in determining the appropriate action taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 84-26626 Filed 10-5-84; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. GP84-54-000]

**Hawthorne Oil & Gas Corp.; Petition of Hawthorne Oil for Issuance of a Declaratory Order To Remove Uncertainty**

Issued October 4, 1984.

On September 17, 1984, Hawthorne Oil & Gas Corp. (Hawthorne) filed a petition for a declaratory order concerning the interpretation of

§ 106(b)(1)(A)(i) of the Natural Gas Policy Act of 1978 (NGPA).

Hawthorne sold gas from the Southwest Gueydan Field in Louisiana pursuant to a contract which expired on June 1, 1983.<sup>1</sup> During the month before the expiration of the contract Hawthorne was being paid the NGPA § 103 level price of \$2.778 per MMBtu for some of the gas and the NGPA § 102 level price of \$3.421 per MMBtu for the remainder. Hawthorne entered into a new contract for the sale of its gas. That contract generally provided that the price paid should be the applicable maximum lawful price under the NGPA.

Hawthorne claims that the applicable maximum lawful price is set forth in § 106(b)(1)(A)(i) of the NGPA and that that section provides that the maximum price for all gas sold under the new contract which was previously subject to the expired contract whether producing or undeveloped is the higher of the two prices paid under the old contract. Hawthorne petitions for a declaratory order to this effect.

Any person who desires to be heard or to make any protest to this petition should file, within 30 days after this notice is published in the Federal Register, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of Rules 211 or 214 of the Commission Rules of Practice and Procedure. All protests filed will be considered but will not make the protestants parties to the proceeding.

Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 84-26627 Filed 10-5-84; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. ID-2127-000]

**J. Robert Johnston; Application**

October 3, 1984.

Take notice that on August 30, 1984, J. Robert Johnston filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

President and Member of the Board of Directors—Alamito Company  
Member of the Board of Directors—Tucson Electric Power Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington,

<sup>1</sup>The gas was transported and resold only within Louisiana.

D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 15, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 84-26629 Filed 10-5-84; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. ER83-418-006]

**Kansas Power and Light Co.; Refund Compliance Filing**

October 3, 1984.

Take notice that on September 24, 1984, Kansas Power and Light Company (KP&L) submitted for filing its Refund Compliance Report pursuant to a Commission order issued August 22, 1984.

KP&L states that Schedule 1, Settlement Refund Summary, shows summary monthly billing determinants, revenue, revenue refund, and interest for the total refund period. Schedule 2 reflects tariff prices as billed and settled. Schedule 3 shows the individual monthly billing determinants and revenues under tariffs as billed and as settled. Schedule 4 reflects each customer's monthly calculation of principal and interest refund.

KP&L further states that in accordance with Section 35.19a, interest for the entire refund period is calculated at an average prime rate for each calendar quarter on all excessive rates (including all interest applicable to such rates). According to KP&L the total amounts shown on the report were refunded to each wholesale customer by check dated September 12, 1984.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 17, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file



with the Commission and are available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 84-26630 Filed 10-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-694-000]

**Michigan Power Co.; Filing**

October 3, 1984.

The filing Company submits the following:

Taken notice that on September 21, 1984, Michigan Power Company (MPCo) tendered for filing proposed changes in its FERC Electric Tariff MRS, Volume No. 1 for wholesale for resale electric service to the City of Dowagiac and the Village of Paw Paw, Michigan. MPCo requests that its proposed tariff changes be made effective on two separate dates as follows:

The tariff changes encompassed in the Twelfth Revised Sheet No. 6 and Sixth Revised Sheet No. 7 are proposed to become effective concurrent with the effective date of Indiana & Michigan Electric Company's proposed Step I rate increase in Docket No. ER84-587-000, on October 8, 1984 (or such other date as may become effective for I&M's Step I increase). Such tariff changes involve recovery of increased purchased power expense which will be incurred by Michigan Power Company pursuant to Indiana & Michigan Electric Company's filing in Docket No. ER84-587-000 and would increase revenues from jurisdictional sales and service by \$151,918 based on the 12-month period ended December 31, 1983.

Michigan Power Company has requested an effective date of December 1, 1984 (or such other date as may become effective for I&M's Step II rate increase) for the tariff changes encompassed in Thirteenth Revised Sheet No. 6 to become effective concurrent with the effective date of Indiana & Michigan Electric Company's proposed Step II rate increase in Docket No. ER84-587-000. Such tariff changes involve recovery of increased purchased power expenses attributable to I&M's Step II rate increase and would increase revenues from jurisdictional sales and service by a total increase of \$555,804 based on the twelve month period ended December 31, 1983.

Michigan Power Company has requested a waiver of the Commission's Rules and Regulations so as to permit the proposed rate increase to become effective on less than 60-days notice.

Michigan Power Company state that a copy of the filing has been provided to

the City of Dowagiac and the Village of Paw Paw and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 17, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 84-26631 Filed 10-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-696-000]

**Panhandle Eastern Pipe Line Co.; Request Under Blanket Authorization**

October 4, 1984.

Take notice that on September 6, 1984, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box-1642, Houston, Texas 77001, filed in Docket No CP84-696-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport gas for an end-user under the certificate issued in Docket No. CP83-83-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Panhandle proposes to transport up to 500 Mcf of natural gas per day, on an interruptible basis, on behalf of Alsey Refractories Company (Alsey), an existing direct industrial sales customer of Panhandle. It is stated that Panhandle would receive the gas at an existing point of interconnection between Panhandle and Union Texas Products Corporation in Major County, Oklahoma, and then transport and redeliver an equivalent volume of gas, less four percent for fuel, to Alsey at an existing point of interconnection in Alsey, Illinois. It is explained that the end-use of the gas would be for burners in tunnel kilns. It is asserted that Panhandle would charge Alsey in accordance to its currently effective OST tariff, a rate of 85.24 cents per

million Btu for the transportation service.

It is explained that the term of the transportation service would be from the date of initial transportation under this authorization and would remain in full force and effect for a primary term of six months and successive terms of one month each thereafter until the earlier of 18 months from the date of initial delivery or termination of authorizations for service hereunder pursuant to Subpart F of Part 157 of the Commission's Regulations, provided that each party may terminate the agreement at the end of any such term by giving 30 days prior written notice of such termination to the other party. Termination would also be subject to final balancing of quantities in accordance with the provisions of the transportation agreement, it is submitted.

Panhandle also requests flexible authority to add or delete sources of supply or receipt/delivery points, if such altered service is on behalf of the same end-user, at the same end-user location, within the maximum daily and annual volumes authorized in this docket, and under the same terms and conditions authorized for the basic service.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

*Secretary,*

[FR Doc. 84-26632 Filed 10-5-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-680-000]

**Public Service Company of Colorado; Filing**

October 3, 1984.

The filing Company submits the following:

Take notice that on September 14, 1984, the Public Service Company of

Colorado (PSCC) tendered for filing a proposed change in its Contract for Interconnection and Transmission Service (Contract) with the United States Department of Energy, Western Area Power Administration (WAPA). Public Service states that the proposed change is a revised Exhibit D to PSCC's Contract with WAPA, dated May 9, 1962, on file with the Commission under Company's FERC Rate Schedule No. 7.

PSCC states that the revised Exhibit D is to reflect the addition and deletion of certain points of interconnection from WAPA wheeling service and also to update the maximum rates of delivery for the particular points of interconnection.

PSCC requests an effective date of July 9, 1984, and therefore requests waiver of the Commission's notice requirements.

According to PSCC copies of this filing were served upon all parties to the Agreement and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 15, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 84-26633 Filed 10-5-84; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. ER84-692-000]

#### **Puget Sound Power & Light Co.; Filing**

October 3, 1984.

The filing Company submits the following:

Take notice that on September 20, 1984, Puget Sound Power & Light Company (Puget) tendered for filing an initial rate schedule, the Transmission Service Agreement, executed on July 31, 1984 between Puget and Public Utility District No. 1 of Clallam County (the "District").

The Agreement generally requires Puget to make available to the District each hour up to 16 MW of capacity in Puget's transmission facilities from BPA's Fairmount Substation to the Port Townsend Paper Corporation. The District is required to pay Puget for such service at the initial rate of \$101.37 per day. Service under the Agreement commenced on July 31, 1984.

Puget requests an effective date of July 31, 1984, and therefore requests waiver of the Commission's notice requirements.

A copy of the filing was served upon the District.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 84-26634 Filed 10-5-84; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. CP84-722-000]

#### **United Gas Pipe Line Co.; Request Under Blanket Certificate**

October 4, 1984.

Take notice that on September 19, 1984, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP84-722-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Shell Oil Company (Shipper) under the certificate, issued in Docket No. CP82-430-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United proposes to transport up to 10,000 Mcf of natural gas per day and up to 1,752,000 Mcf of natural gas per year on behalf of Shipper. It is stated that Shipper is purchasing the gas from Shell

Western E&P Inc. in Terrebonne, St. Charles, and Natchitoches Parishes, Louisiana. Shipper will deliver the gas to an existing interconnection with United in Natchitoches Parish, Louisiana, it is stated. From this point, United proposes to transport and deliver equivalent volumes of gas to Mobile Gas Service Corporation (Mobile Gas) at an existing interconnection in Mobile County, Alabama. Mobile Gas in turn would make the ultimate delivery to Shipper's chemical plant located in Mobile, Alabama, where the gas would be used for boiler fuel and miscellaneous plant uses, it is asserted.

United states that it would apply its effective transportation rate applicable to its northern rate zone including components for gas consumed in the operation of United's pipeline system and for the Gas Research Institute. Such rate is currently 43.19 cents per Mcf, it is stated. There is no 5-cent added incentive charge proposed. United further states that it would not construct or add to its existing facilities to provide this service and that it has sufficient capacity to perform such service without detriment or disadvantage to its other customers. The term of the proposed service would expire at 7:00 a.m. on June 30, 1985, unless the Commission provides for an extension of service at which time the term would be automatically extended by the transportation agreement until January 1, 1986, it is explained.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 84-26635 Filed 10-5-84; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No QF84-497-000]

**C&S Enterprises; Application for Commission Certification of Qualifying Status of a Small Power Production Facility**

October 3, 1984.

On September 17, 1984, C&S Enterprises (Applicant), of 1723 E. 3rd Street, Delta, Colorado 81416, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 100 kilowatt hydroelectric facility will be located approximately 4.5 miles south of Crawford, Colorado in Montrose County.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 84-26624 Filed 10-5-84; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. QF84-490-000]

**Hydro-Op One Associates; Application for Commission Certification of Qualifying Status of a Small Power Production Facility**

October 3, 1984.

On September 7, 1984, Hydro-Op One Associates of c/o National Hydro Corporation, 77 Franklin Street 9th Floor, Boston, Massachusetts 02110, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 3.6 megawatt hydroelectric facility (P. 287) is located on the Fox River in LaSalle County, Dayton, Illinois.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 84-26628 Filed 10-5-84; 8:45 am]  
BILLING CODE 6717-01-M

**Office of Civilian Radioactive Waste Management****Advisory Panel on Alternative Means of Financing and Managing (AMFM), Radioactive Waste Facilities; Open Meeting**

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Advisory Panel on Alternative Means of Financing and Managing (AMFM) Radioactive Waste Facilities.

Date and time: October 22-8:30 a.m.-5:00 p.m.; October 23-8:30 a.m.-4:00 p.m.

Place: U.S. Department of Energy, Forrestal Building, Room 1E-245, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Contact: Harold H. Brandt, U.S. Department of Energy, Office of Civilian Radioactive Waste Management, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone: (202) 252-1652.

**Purpose of the Panel**

To study and report to the Department of Energy on alternative approaches to

managing the construction and operation of civilian radioactive waste facilities, pursuant to Section 303 of the Nuclear Waste Policy Act of 1982 (Pub. L. 97-425). The Panel's report will include a thorough and objective analysis of the advantages and disadvantages of each alternative approach, but will not address the specific siting of radioactive waste facilities.

**Tentative Agenda****October 22**

- Continue discussion of organizational alternatives.
- Panel review and comment on final report draft.
- Public comment (10 minute rule).

**October 23**

- Continue discussion of organizational alternatives.
- Panel review and comment on final report draft.
- Public comment (10 minute rule).

**Public Participation**

The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Harold Brandt at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

**Transcripts**

The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between 8:30 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on October 3, 1984.

Howard H. Raiken,  
*Deputy Advisory Committee Management Officer.*

[FR Doc. 84-26648 Filed 10-5-84; 8:45 am]  
BILLING CODE 6450-01-M

**ENVIRONMENTAL PROTECTION  
AGENCY**

[OPP-00183; FRL-2689-3]

**Administrator's Pesticide Advisory  
Committee; Meeting****AGENCY:** Environmental Protection  
Agency (EPA).**ACTION:** Notice of Meeting.

**SUMMARY:** The Administrator's Pesticide Advisory Committee (APAC) will hold a meeting to continue its consideration of improvements to the pesticide reregistration process for existing chemicals. The Committee will also initiate a discussion of the regulation of inert ingredients in pesticide products. General activities of the Office of Pesticide Programs (OPP) may also be discussed. The meeting will be open to the public.

**DATE:** The meeting will take place on Thursday, October 25, 1984, at 9:00 a.m. and adjourn by 4:30 p.m.

**ADDRESS:** The meeting will be held in: North Lobby Conference Room, Capitol Park International, 800 Fourth St., SW., Washington, D.C. 20024.

**FOR FURTHER INFORMATION CONTACT:** Betty Winter, Executive Secretary, Administrator's Pesticide Advisory Committee (TS-788), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-636, 401 M St., SW., Washington, D.C. 20460, (202-382-7801).

**SUPPLEMENTARY INFORMATION:** The APAC will begin with opening remarks by Dr. Sam Gusman, APAC Chairperson, and Dr. John A. Moore, Assistant Administrator for Pesticides and Toxic Substances. The Committee will continue its discussion of the reregistration process, which was introduced at the first meeting on June 27 and continued at the September 7 meeting. The APAC will also address the topic of the regulation of inert ingredients in pesticide products at this meeting. EPA will present relevant issues on this topic for Committee discussion. An agenda will be available at a later date.

The meeting will be open to the public, and time will be set aside for public comments concerning the issues to be discussed at the meeting. Any member of the public wishing to present an oral or written statement relating to the Committee's topics of discussion for this meeting should contact the APAC Executive Secretary at the address or telephone number listed above.

Dated: September 28, 1984.

John A. Moore,  
*Assistant Administrator for Pesticides and  
Toxic Substances.*

[FR Dec. 84-26374 Filed 10-5-84; 9:45 a.m.]

BILLING CODE 6560-50-M

[OPPE-FRL-2689-2]

**Agency Information Collection  
Activities Under OMB Review****AGENCY:** Environmental Protection  
Agency (EPA).**ACTION:** Notice.

**SUMMARY:** Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the Federal Register a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget for review. The ICR describes the nature of the solicitation and the expected impact, and, where appropriate, includes the actual data collection instrument. The following ICRs are available to the public for review and comment.

**FOR FURTHER INFORMATION CONTACT:** Nanette Liepman (PM-223); Office of Standards and Regulations; Regulation and Information Management Division; U.S. Environmental Protection Agency; 401 M Street, SW.; Washington, D.C. 20460; telephone (202) 382-2742 or FTS 382-2742.

**SUPPLEMENTARY INFORMATION:****Hazardous Waste Programs**

- Title: Hazardous Waste Industry Studies (EPA #0818).

**Abstract:** For more effective regulation of hazardous wastes under RCRA, EPA proposes to collect information on industrial process residuals and their quantities, characteristics and management. Data will be gathered primarily through industry questionnaires and supplemented with a selected number of site visits.

**Respondents:** Owners/operators in the petroleum refining, wood preservatives and pharmaceuticals industries.

\* \* \* \* \*

**Agency PRA Clearance Requested  
Completed by OMB**

OMB has extended the expiration date of the following approved information clearance requests under New Source Performance Standards: EPA #1050, NSPS: Storage vessels for petroleum liquids (OBM #2060-0024: expires 12/31/84).

EPA #1051, NSPS: Portland cement plants (OBM #2060-0025: expires 12/31/84).

EPA #1080, NSPS: Electric utility steam generating units (OBM #2060-0023: expires 01/31/85).

EPA #1054, NSPS: Petroleum refineries—excess emission reports (OBM #2060-0022: expires 01/31/85).

EPA #1056, NSPS: Emission monitoring for nitric acid plants (OBM #2060-0019: expires 02/28/85).

EPA #1057, NSPS: Emission monitoring for sulfuric acid plants (OBM #2060-0041: expires 12/31/84).

EPA #1058, NSPS: Incinerator monitoring provisions (OBM #2060-0040: expires 03/31/85).

EPA #1061, NSPS: Phosphate fertilizer plants (OBM #2060-0037: expires 04/30/85).

EPA #1063, NSPS: Coal preparation plants (OBM #2060-0035: expires 4/30/85).

EPA #1064, NSPS: Automobile and light duty truck surface coating (OBM #2060-0034: expires 5/31/85).

EPA #1065, NSPS: Ferroalloy production facilities (OBM #2060-0033: expires 12/31/84).

EPA #1066, NSPS: Ammonium sulfate plants (OBM #2060-0032: expires 12/31/84).

EPA #1067, NSPS: Primary aluminum reduction plants (OBM #2060-0031: expires 03/30/85).

EPA #1068, NSPS: Primary copper, lead and zinc smelters (OBM #2060-0030: expires 12/31/84).

EPA #1069, NSPS: Basic oxygen process furnaces (OBM #2060-0029: expires 03/30/85).

EPA #1070, NSPS: Granular triple superphosphate (OBM #2060-0027: expires 07/31/85).

EPA #1071, NSPS: Gas turbines (OBM #2060-0028: expires 07/31/85).

Comments on all parts of this notice should be sent to:

Nanette Liepman (PM-223), U.S. Environmental Protection Agency, Office of Standards and Regulations, Regulation & Information Management Division, 401 M Street, SW., Washington, D.C. 20460; and Mary Moore, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, D.C. 20503

Dated: October 2, 1984.

**Daniel J. Fiorino,**  
Acting Director, Regulation and Information  
Management Division.

[FR Doc. 84-26575 Filed 10-5-84; 8:45 am]

BILLING CODE 6560-50-M

[AAA-FRL-2687-5]

# **EPA Master List of Debarred, Suspended, or Voluntarily Excluded Persons**

**AGENCY:** Environmental Protection  
Agency.

**ACTION:** EPA Master List of Debarred,  
Suspended, or Voluntarily Excluded  
Persons.

**SUMMARY:** 40 CFR 32.400 requires the Director, Grants Administration Division, to publish in the Federal Register each calendar quarter the names of, and other information concerning, those parties debarred, suspended, or voluntarily excluded from participation in EPA assisted programs by EPA action under Part 32. Assistance (grant and cooperative agreement) recipients and contractors under EPA assistance awards may not initiate new business with these firms or individuals on any EPA funded activity during the period of suspension, debarment, or voluntary exclusion.

This short list contains the names of those persons who have been listed as a result of EPA actions only. It is provided for general informational purposes only

and is not to be relied on in determining a person's current eligibility status. A comprehensive list, updated weekly, is available in each Regional Office. Inquiries concerning the status of any individual, organization, or firm should be directed to EPA's Regional or Headquarters office for grants administration that normally serves you.

**DATE:** This short list is current as of September 21, 1984.

**FOR FURTHER INFORMATION CONTACT:**  
Frank Dawkins, of the EPA Compliance Staff, Grants Administration Division, at (202) 475-8025.

Dated: September 19, 1984.

**Harvey G. Pippen, Jr.,**  
Director, Grants Administration Division  
(PM-216).

## **EPA MASTER LIST OF DEBARRED, SUSPENDED AND VOLUNTARILY EXCLUDED PERSONS**

Name and jurisdiction	File No.	Status <sup>1</sup>	From	To	Grounds
A. C. Lawrence Leather Company, Inc. (Danvers, MA)	83-0007-00	D	04-12-84	04-11-87	§ 32.200 (a)(c)(f).
Anderson, Scott (Walnut Creek, CA)	83-0004-01	D	06-17-83	06-16-86	§ 32.200 (a)(b)(e)(f).
Ashland-Warren, Inc. (McMinnville, TN)	82-0401	D	09-22-82	05-06-85	§ 32.200 (a)(e).
Atlas Prestressing Corp. (Panorama City, CA)	83-0050-00	D	08-23-83	08-01-86	§ 32.200 (a).
Avenill, Ernest Jr. (Fort Meyers, FL)	83-0066-06	S	12-02-83	Open	§ 32.200 (b).
Barber, Lawrence (Hazelwood, NC)	83-0007-05	D	04-12-84	04-11-87	§ 32.200 (a)(c)(f).
Bowe, Walsh and Associates, Inc. (Melville, NY)	83-0040-00	D	04-14-83	04-13-86	§ 32.200 (a)(e).
Bowers Excavating and Fencing, Inc. (Klamath Falls, OR)	83-0058-00	D	06-27-83	12-27-84	§ 32.200 (b)(e)(f).
Bowers, Joe (Klamath Falls, OR)	83-0058-01	D	06-27-83	12-27-84	§ 32.200 (b)(e)(f).
Bowers, John (Klamath Falls, OR)	83-0058-02	D	06-27-83	12-27-84	§ 32.200 (b)(e)(f).
Christian, Burl Gene (Denver, CO)	83-0050-02	VE	11-03-83	11-02-84	§ 32.200 (a).
Croft, William A. (Madison, WI)	83-0047-00	S	08-20-84	Open	§ 32.200 (a).
Erichetti, Angelo J. (Camden, NJ)	83-0040-04	D	04-14-83	04-13-86	§ 32.200 (a)(b).
Friedrich, Rene (Saratoga, CA)	83-0003-01	VE	12-23-83	12-22-84	§ 32.200 (a).
Gabey, Martin (Northport, NY)	83-0040-02	D	12-16-83	12-15-86	§ 32.200 (a).
Goodspeed, Robert (North Hampton, NH)	83-0007-02	D	04-12-84	04-11-87	§ 32.200 (c)(f).
Harry Johnson Plumbing Co., Inc. (Walla Walla, WA)	83-0060-00	D	07-22-83	07-21-86	§ 32.200 (b)(c)(e)(f).
Herbert G. Whyte, Associates, Inc. (Gary, IN)	83-0501	D	10-20-82	10-19-85	§ 32.200 (b)(e).
Hunter, James C. (Gardena, CA)	83-0002-02	D	07-07-83	07-06-86	§ 32.200 (a).
Jackson, Manly (San Jose, CA)	83-0048-02	D	06-27-83	06-26-86	§ 32.200 (a).
Johnson, Mark (Walla Walla, WA)	83-0060-01	D	07-22-83	07-21-86	§ 32.200 (b)(c)(e)(f).
Johnson, Richard (Hinsdale, NH)	83-0007-03	D	04-12-84	04-11-87	§ 32.200 (c)(f).
Keller, John (Timonium, MD)	83-0048-01	D	09-09-83	03-08-85	§ 32.200 (a).
L.A. Reynolds Co. (Winston Salem, NC)	83-0036-00	D	07-01-83	06-30-86	§ 32.200 (a).
Long, Harold Delmar (Los Gatos, CA)	83-0050-01	D	07-07-83	07-06-86	§ 32.200 (a).
Marshall, Weymouth (Gloucester, MA)	83-0007-01	D	04-12-84	04-11-87	§ 32.200 (c)(f).
Meyer, Gary (North Platte, NE)	83-0031-01	VE	04-16-84	10-17-84	§ 32.200 (a).
Municipal & Industrial Pipe Services, Ltd. (Douglasville, GA)	82-0601	D	10-07-82	02-16-87	§ 32.200 (b)(c)(e)(f).
	82-0408				
Newman, Fred M. (Vienna, VA)	83-0072-01	D	09-30-83	09-29-86	§ 32.200 (f).
Newman, Richard Gordon (Pierre, SD)	83-0041-00	D	11-29-83	11-28-86	§ 32.200 (a).
Post-Tensioning Service Corp. (Saratoga, CA)	83-0001-00	D	07-08-83	07-07-86	§ 32.200 (a).
Reynolds, Jon R. (Winston Salem, NC)	83-0036-01	D	07-01-83	06-30-86	§ 32.200 (a).
Richmond, Elwood P. (Grand Forks, ND)	83-0006-01	D	06-06-83	06-05-86	§ 32.200 (a)(f).
Richmond Engineering, Inc. (Grand Forks, ND)	83-0006-00	D	06-06-83	06-05-86	§ 32.200 (a)(f).
Richmond, Lloyd W., Jr. (Grand Forks, ND)	83-0006-02	D	06-06-83	06-05-86	§ 32.200 (a)(f).
Rothrock Construction, Inc. (Murrells Inlet, NC)	83-0064-00	D	05-17-84	05-16-87	§ 32.200 (a).
Rothrock, Steve D. (Murrells Inlet, NC)	83-0064-01	D	05-18-84	05-17-87	§ 32.200 (a).
Shepherd, Frank A. (Savannah, TN)	83-0046-01	D	07-15-83	11-03-85	§ 32.200 (a).
Stone, Francis (Swansey, NH)	83-0007-04	D	04-12-84	04-11-87	§ 32.200 (a)(c)(f).
Stressteel Corp. (Wilkes-Barre, PA)	83-0051-00	D	08-02-83	02-01-85	§ 32.200 (a).
Suburban Grading & Utilities, Inc. (Norfolk, VA)	83-0022-00	D	03-29-83	03-28-85	§ 32.200 (a).
Swanson, David (Los Gatos, CA)	83-0003-02	VE	11-03-83	11-02-84	§ 32.200 (a)(f).
Vanderhurst, William (Saratoga, CA)	83-0001-01	D	07-08-83	07-07-86	§ 32.200 (a).
Walsh, Charles T. (Huntington Bay, NY)	83-0040-01	D	04-14-83	04-13-86	§ 32.200 (a).
Walstad, Merrill (Huntington Beach, CA)	83-0003-03	D	06-27-83	06-26-86	§ 32.200 (a).
Watts, Richard (Los Gatos, CA)	83-0003-04	VE	11-03-83	11-02-84	§ 32.200 (a).
Whyte, Herbert G. (Gary, IN)	82-0501	D	10-20-82	10-19-85	§ 32.200 (b)(e).
Wirt, David (Douglasville, GA)	82-0601	D	10-07-82	02-16-87	§ 32.200 (b)(c)(e)(f).
	82-0408				
Wirt, Gordon D. (Douglasville, GA)	82-0408	D	12-07-82	02-16-87	§ 32.200 (c)(e).
Wirt, Judith C. (Douglasville, GA)	82-0408	D	12-07-82	02-16-87	§ 32.200 (c)(e)(f).
Womack, Jerry T. (Norfolk, VA)	83-0022-01	D	03-29-83	03-28-85	§ 32.200 (a).
Zeigler, Beatty Stevens (Sumter, SC)	83-0045-01	VE	07-15-83	08-31-86	§ 32.200 (a).

<sup>1</sup>D=Debarred; S=Suspended; VE=Voluntarily Excluded.

[A-5-FRL-2687-6]

**Availability of Section 321 Investigation; Final Report****AGENCY:** U.S. Environmental Protection Agency (USEPA).**ACTION:** Notice of availability.

**SUMMARY:** On February 3, 1984, the Administrator of USEPA granted a request to conduct an investigation as authorized under section 321 of the Clean Air Act (49 FR 9260, March 12, 1984). The purpose of the investigation is to determine what, if any, employment effects at the Peabody Coal Company, Sunnyhill Mine, in New Lexington, Ohio, are the direct result of air pollution regulations adopted pursuant to the Clean Air Act. Beginning June 18, 1984, USEPA made available copies of its draft report and provided a public comment period (49 FR 25903, June 25, 1984).

USEPA has finalized this report and it is now available to the public. Copies of this report can be obtained by writing or calling the contact person listed in the address section of this notice.

**ADDRESS:** Copies of the final report can be obtained by writing or calling: Bessie Tinsley, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 S. Dearborn Street, Chicago, Illinois 60604, (312) 886-6069.

Dated: September 21, 1984.

Alan Levin,

*Acting Regional Administrator.*

[FR Doc. 84-26577 Filed 10-5-84; 8:45 am]

BILLING CODE 6560-50-M

[EN-FRL-2690-8]

**Pretreatment Implementation Review Task Force; Open Meetings**

Pursuant to Public Law 92-463, notice is hereby given that meetings of the Pretreatment Implementation Review Task Force will be held as follows:

**Technical Implementation**

*Subcommittee*, October 24, 8:30 a.m. to 5:00 p.m., Capitol Park International, South Lobby Conference Room, 800 Fourth St., SW., Washington, D.C. 20024.

*Entire Pretreatment Implementation Review Task Force*, November 8 and 9, 9:00 a.m. to 5:00 p.m., Capitol Park International, North Lobby Conference Room, 800 Fourth St., SW., Washington, D.C. 20024.

*Entire Pretreatment Implementation Review Task Force*, December 4 and 5,

9:00 a.m. to 5:00 p.m., Capitol Park International, North Lobby Conference Room, 800 Fourth St., SW., Washington, D.C. 20024.

The agenda for the Technical Implementation Subcommittee meeting on October 24 involves a review of the draft removal credit guidance. The agenda for the entire Task Force meeting on November 8 and 9 involves a detailed consideration of the initial draft of the Final Report from the Task Force to the Administrator. This report will include recommendations in the areas of technical issues, POTW program development, and reporting for POTWs and industrial users. The agenda for the entire Task Force meeting on December 4 and 5 involves formal approval of the Final Report from the Task Force to the Administrator.

Any member of the public wishing to make comments is invited to submit them in writing to Mr. Richard Kinch no later than November 7, 1984. All sessions will be open to the public. Any member of the public wishing additional information should contact Mr. Richard Kinch or Dr. Jerry Parker (EN-336), U.S. EPA, 401 M St., SW., Washington, D.C. 20460, (202) 755-0750.

**FOR FURTHER INFORMATION CONTACT:** Dr. Jerry Parker, (202) 755-0750.

Dated: October 3, 1984.

Henry L. Longest, II,

*Acting Assistant Administrator for Water.*

[FR Doc. 84-26831 Filed 10-5-84; 11:47 am]

BILLING CODE 6560-50-M

**FEDERAL COMMUNICATIONS COMMISSION****Public Information Collection Requirements Submitted to Office of Management and Budget for Review**

October 3, 1984.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Copies of the submissions are available from Doris Peacock, Agency Clearance Officer, (202) 632-7513. Persons wishing to comment on these information collections should contact Marty Wagner, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503, (202) 395-4814.

OMB Number: 3060-0183

Title: Section 73.1840, Retention of Logs

Action: Revision

Respondents: Businesses (including small businesses)

Estimated Annual Burden: 11,075  
Recordkeepers; 287,950 Hours

OMB Number: 3060-0194

Title: Section 74.21, Broadcasting  
Emergency Information

Action: Extension

Respondents: Businesses (including small businesses)

Estimated Annual Burden: 250  
Respondents; 250 Hours

OMB Number: 3060-0208

Title: Section 73.1870, Chief Operators

Action: Revision

Respondents: Businesses (including small businesses)

Estimated Annual Burden: 11,075  
Recordkeepers; 287,950 Hours

William J. Tricarico,

*Secretary, Federal Communications Commission.*

[FR Doc. 84-26063 Filed 10-5-84; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 84-916; File No. BPCT-840208KF et al.]

**Big Six-O TV et al.; Hearing Designation Order**

In re Applications of Big Six-O TV; MM Docket No. 84-916, File No. BPCT-840208KF; Channel 60 Corp.; MM Docket No. 84-917, File No. BPCT-840628KG; Minority TV of Tyler, Inc.; MM Docket No. 84-918, File No. BPCT-840629KM; Joseph L. Matthews, Robert L. Bailes, Michael H. Cooper, Harrietta F. Clark Partnership d/b/a Vestcom Broadcasting; MM Docket No. 84-919, File No. BPCT-840629KQ; For Construction Permit for New TV Station Tyler, Texas.

Adopted: September 27, 1984.

Released: October 2, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Big Six-O TV (Six-O), Channel 60 Corporation, Minority TV of Tyler, Inc. (Minority), and Joseph L. Matthews, Robert L. Bailes, Michael H. Cooper, Harrietta F. Clark Partnership d/b/a Vestcom Broadcasting (Vestcom) for authority to construct a new commercial television station on Channel 60, Tyler, Texas.

2. The effective radiated visual power, antenna height above average terrain and other technical data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would be served by each. Consequently, the areas and populations which would receive television service of 64 dBu (Grade B) or greater intensity, together with the availability of other Grade B television services in such areas, will be



considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

3. No determination has been made that the tower heights and locations proposed by the applicants would not constitute a hazard to air navigation.<sup>1</sup> Accordingly, an appropriate issue will be specified.

4. Six-O states that it is a limited partnership. Section II, Item 5(a), FCC Form 301, requires that if the applicant is a partnership, the requested information must be given for each general or limited partner. Six-O application identifies only the 51% general partner and does not identify any other general partners or limited partners. Section 73.3514(a) of the Commission's Rules requires an applicant to provide all information called for by FCC forms, unless the information is inapplicable. However, in *Attribution of Ownership Interests*, 55 R.R. 2d 1464 (1984), the Commission stated that, henceforth, limited partnership interests were not attributable for the purposes of the multiple ownership rules, if the applicant certifies that the limited partnership agreement conforms in all relevant respects to the Uniform Limited Partnership Act (ULPA) and "if the limited partner is not involved in any material respect in the business or operation of the station." *Id.* at 1485. Further, the Commission directed that Form 301, among others, be amended to conform to the new attribution standards. *Id.* at 1493. Although changes in the form have not yet been made, there is now no need to provide information as to the limited partners if Six-O can submit the necessary certification. If the certification is not appropriate, of course, the limited partners would be considered to have attributable interests, and the necessary information as to them would have to be filed as an amendment. Further, the Commission retained the cross-interest policy as to other attributable media interests in the same area. *Id.* at 1490. Accordingly, Six-O will be required either to state that its limited partners have no other media interests subjects to the cross-interests policy or identify the limited partners with such interests, identify the other local media and state the nature or extent of the ownership interests. Six-O must, of course, provide

complete identifying information on its other general partners, if any.

5. In responding to Section II, Page 2, Item 5(a), FCC Form 301, Minority makes reference to the president of the corporation and to limited partners. However, none of the limited partners were listed. Thus, it is not clear whether it is a corporation or a partnership. Minority will be required to file a clarifying amendment with respect to the nature of its business organization, to the presiding Administrative Law Judge within 20 days of the date of the release of this Order. If Minority is a limited partnership, it should provide the information outlined in paragraph 4, *supra*.<sup>2</sup>

6. Section 73.3555(a)(3) of the Commission's Rules states that no license for a television broadcast station shall be granted to any party if such party directly or indirectly owns, operates, or controls one or more television broadcast stations and the grant of such license will result in any overlap of the Grade B contours of the existing and proposed stations. The Harrietta F. Clark Partnership (Clark Partnership), one of the limited partners of Vestcom, owns 2000 shares of common stock in Lin Broadcasting, a publicly traded company, which is the licensee of KXAS-TV, Channel 5, Fort Worth, Texas. The Grade B contour of KXAS-TV and the proposed Tyler station overlaps in a very small area of approximately 4 miles. However, Clark Partnership interest in Lin Broadcasting is less than 1% and is not an attributable interest. Accordingly, the proposal is not in violation of § 73.3555(a)(3).

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by each applicant would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. It is further ordered, That, Big Six-O TV shall submit the certification, statement and/or information required by paragraph 4, *supra*, to the presiding Administrative Law Judge within 20 days after this Order is released.

10. It is further ordered, That Minority shall submit a clarifying amendment in response to Item 5(a), FCC Form 301, as described in paragraph 5, *supra*, to the presiding Administrative Law Judge within 20 days of the date of the release of this Order.

11. It is further ordered, That the Federal Aviation Administration IS MADE A PARTY RESPONDENT to this proceeding with respect to Issue 1.

12. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

13. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84-26608 Filed 10-5-84; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 84-923, File No. BPCT-840522KG et al.]

Capital City Community Interests, Inc., et al.; Hearing Designation Order

In re Applications of Capital City Community Interests, Inc., MM Docket No. 84-923, File No. BPCT-840522KG; Isabel Chavez, MM Docket No. 84-924, File No.

<sup>1</sup>The Commission's Antenna Survey Branch has no record of an existing structure of the height proposed by Six-O at the designated site. Six-O will be required to file FAA Form 7460-1 with the FAA.

<sup>2</sup>We note that Minority only lists one officer of its "corporation" in its application. However, in the state of Texas, where we will assume Minority is incorporated, it is entirely permissible to have a single officer.

BPCT-840709KF; Television 54 Corporation, MM Docket No. 84-925, File No. BPCT-840710KF; Jo Cardenas Stoltz and Mary G Diaz, a partnership d.b.a. Capitol Area Broadcasting, MM Docket No. 84-926, File No. BPCT-840710KN; Balcones Broadcasting Limited, MM Docket No. 84-927, File No. BPCT-840711KJ; Lake Country Telecasters, Inc., MM Docket No. 84-928, File No. BPCT-840711KK; Channel 54, Limited, MM Docket No. 84-929, File No. BPCT-840711KL; ATV Associates, Inc., MM Docket No. 84-930; File No. BPCT-840711KM; DB Broadcasting, Inc., MM Docket No. 84-931, File No. BPCT-840711KN; For Construction Permit, Austin, Texas.

Adopted: September 27, 1984.

Released: October 2, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for a new commercial television station to operate on Channel 54, Austin, Texas.

2. No determination has been reached that the tower heights and locations proposed by Television 54 Corporation (TV 54), Capitol Area Broadcasting (Capitol Area), Balcones Broadcasting Limited (Balcones), Channel 54 Limited (Channel 54), ATV Associates, Inc. (ATV) and DB Broadcasting, Inc. (DB) would not constitute a hazard to air navigation.<sup>1</sup> Accordingly, an appropriate issue will be specified.

3. The transmitter sites proposed by TV 54, Capitol Area, Balcones, ATV and DB now meet all of the Commission's minimum mileage separation requirements. There is, however, a rulemaking proposal pending which would allocate Channel 69 to San Antonio, Texas. If this proposal is adopted, each of these proposals would be short-spaced to the reference point in San Antonio.<sup>2</sup> An issue would then be required to determine whether circumstances exist which would warrant a waiver of the rule. In assessing the circumstances to determine whether a waiver would be warranted, the presiding Administrative Law Judge would consider the fact that the other applicants have specified sites which would comply with the separation requirements. Accordingly, a contingent

issue with respect to the possible short-spaced proposals will be specified.

4. The effective radiated visual power, antenna height above average terrain and other technical data submitted by the applicants indicate that there would be a significant difference in the size of the area and population that each proposes to serve. Consequently, the areas and populations which would be within the predicted 64 dBu (Grade B) contour, together with the availability of other television service of Grade B or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

5. Isabel Chavez has not specified the area and population within the predicted Grade B contour of her proposed station as required by Section V-C, item 10, FCC Form 301. Accordingly, Ms. Chavez will be required to submit an amendment showing the required information, within 20 days after this Order is released, to the presiding Administrative Law Judge.

6. In Section V-C, FCC Form 301, TV 54 specifies maximum visual effective radiated power of 5000 kW and antenna height above average terrain of 2,041 feet. This combination of power and height exceeds the maximum permitted by Section 73.614 of the Commission's Rules. TV 54 must submit a corrective amendment to the presiding Administrative Law Judge, within 20 days after this Order is released.<sup>3</sup>

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant would serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as

<sup>1</sup> On September 17, 1984, ATV filed a "Motion to Return Amendment" requesting the Commission to return as unacceptable for filing TV 54's amendment of August 30, 1984, because the proposal does not comply with Section 73.614(b) of the rules. ATV is correct in that Section 73.614(b) does preclude the acceptance for filing of an amendment proposing power in excess of 5000 kW at 2,000 feet above average terrain. Therefore, if TV 54 wants to operate at a power and height other than as originally specified, it must request a power and height complying with Section 73.614(b). Accordingly, to the extent that the August 23, 1984, amendment violates Section 73.614(b), the amendment is rejected, and accepted in all other respects.

amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Television 54 Corporation, Capitol Area Broadcasting, Balcones Broadcasting Limited, ATV Associates, Inc. and DB Broadcasting, Inc. whether there is a reasonable possibility that the tower height and location proposed by each would constitute a hazard to air navigation.

2. In the event the Commission adopts the pending rulemaking proposal to allocated Channel 69 to San Antonio, Texas, to determine with respect to Television 54 Corporation, Capitol Area Broadcasting, Balcones Broadcasting Limited, ATV Associates, Inc. and DB Broadcasting, Inc. whether circumstances exist which would warrant a waiver of Section 73.610 of the Commission's rules.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

10. It is further ordered, That Isabel Chavez shall submit the figures for the area and population within the predicted Grade B contour of the proposed facility to the presiding Administrative Law Judge, within 20 days after this Order is released.

11. It is further ordered, That Television 54 Corporation shall submit an amendment to show compliance with Section 73.614 of the Commission's Rules pertaining to power and antenna height above average terrain, to the presiding Administrative Law Judge, within 20 days after this Order is released.

12. It is further ordered, That the "Motion to Return Amendment" filed by ATV Associates, Inc. is granted to the extent noted herein, and is denied in all other respects.

13. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the

<sup>1</sup> The Commission has not received copies of the Federal Aviation Administration's studies for proposals submitted by Channel 54, ATV and DB.

<sup>2</sup> Section 73.610 of the Commission's Rules requires a minimum separation of 75 miles between a station operating on Channel 54 and a Channel 69 station or reference point. TV 54's proposal would be 14 miles short-spaced; Capitol Area's proposal would be 16 miles short-spaced; Balcones' proposal would be 14 miles short-spaced; ATV's proposal would be 2 miles short-spaced; and DB's proposal would be 16 miles short-spaced.

hearing and present evidence on the issues specified in this Order.

14. It is further Ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84-26606 Filed 10-5-84; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 84-920; File No. BPCT-840525KF et al.]

### Contemporary Communications, Inc., et al.; Hearing Designation Order

In re Applications of Contemporary Communications, Inc.; MM Docket No. 84-920, File No. BPCT-840525KF; Haynes Communications Co.; MM Docket No. 84-921, File No. BPCT-840710KL; Grand Canyon Television Co., Inc.; MM Docket No. 84-922, File No. BPCT-840711KQ; For Construction Permit, Gallup, New Mexico.

Adopted: September 27, 1984.

Released: October 2, 1984.

By the Chief, Video Services Division.

1. The Commission, by the Chief, Video Services Division, acting pursuant to the delegated authority, has before it the above-captioned mutually exclusive applications of Contemporary Communications, Inc. (Contemporary), Haynes Communications Co. (Haynes), and Grand Canyon Television Co., Inc., (Grand Canyon) for authority to construct a new commercial television station on Channel 10, Gallup, New Mexico.

2. The effective radiated visual power, antenna height above average terrain and other technical data submitted by each applicant indicates that there would be a significant difference in the size of the areas and populations which would be served by each of the proposals. Consequently, the areas and populations which would be within the predicted 64 dBu (Grade B) contours together with the availability of other television service of Grade B or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

3. No determination has been made that the tower height and location

proposed by Grand Canyon<sup>1</sup> would not constitute a hazard to air navigation. Accordingly, an appropriate issue will be specified.

4. Haynes has indicated that it would not have line-of-sight to its principal community. Consequently, the applicant has requested a waiver of § 73.685(b) of the Commission's Rules. Accordingly, an appropriate issue will be specified to determine whether a waiver of § 73.685(b) is warranted.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant would serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by Grand Canyon Television Co., Inc. would constitute a hazard to air navigation.

2. To determine with respect to Haynes Communications Co. whether circumstances exist which would warrant a waiver of § 73.685(b) of the Commission's Rules.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

8. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing.

<sup>1</sup> The Commission is not in receipt of FAA's determination for the tower proposed by Grand Canyon.

and present evidence on the issues specified in this Order.

9. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84-26609 Filed 10-5-84; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 84-932; File No. BPCT-840606KE et al.]

### Wilshire District Broadcasting Co., Inc., et al.; Hearing Designation Order

In re Applications of Wilshire District Broadcasting Co., Inc.; MM Docket No. 84-932, File No. BPCT-840606KE; Rainbow Television Group; MM Docket No. 84-933, File No. BPCT-840606KJ; Coast TV; MM Docket No. 84-934, File No. BPCT-840720KG; Mission Broadcasting Corporation; MM Docket No. 84-935, File No. BPCT-840723KI; Kenneth E. Hinton, et al. d/b/a MISSION BROADCAST; MM Docket No. 84-936, File No. BPCT-840723KJ; Santa Barbara 38 Broadcast Group Limited Partnership; MM Docket No. 84-937, File No. BPCT-840723KO; For Construction Permit, Santa Barbara, California.

Adopted: September 27, 1984.

Released: October 2, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for a new commercial television station to operate on Channel 38, Santa Barbara, California.

2. The effective radiated visual power, antenna height above average terrain and other technical data submitted by the applicants indicate that there would be a significant difference in the size of the area and population that each proposes to serve. Consequently, the areas and populations which would be within the predicted 64 dBu (Grade B) contour, together with the availability of other television service of Grade B or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

3. No determination has been reached that the tower height and location

proposed by each of the applicants, except Wilshire District Broadcasting Co., Inc. (Wilshire District), would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

4. Wilshire District proposes a transmitter site that is located within 0.5 mile of Station KIST(AM), Santa Barbara, California. Santa Barbara 38 Broadcast Group Limited Partnership (SB 38) proposes to mount its antenna on the tower of Station KBLS(AM), Santa Barbara, California. If Wilshire District or SB 38 is the successful applicant for Channel 38, the construction permit shall be conditioned to ensure that KIST(AM)'s or KBLS(AM)'s radiation pattern will not be adversely affected.

5. Section 73.685(f) of the Commission's Rules requires an applicant proposing to use a directional antenna to include a tabulation of relative field pattern, oriented so that 0° corresponds to True North and tabulated at least every 10° plus any minima or maxima. Coast TV and SB 38 have not supplied this data.<sup>1</sup> Accordingly, Coast TV and SB 38 will each be required to submit an amendment with the appropriate information, to the presiding Administrative Law Judge and a copy to the TV Branch, Mass Media Bureau, within 20 days after this Order is released.

6. Section 73.682(a)(15) of the Commission's Rules provides that the effective radiated power (ERP) of the aural transmitter shall not exceed 22 percent of the peak radiated power of the visual transmitter. In Section V-C, item 3, FCC Form 301, Coast TV specifies a maximum visual ERP of 2,690 kW and a maximum aural ERP of 742.3 kW, which is in excess of the 22 percent permitted by the rule. Coast TV will be required to submit a corrective amendment to the presiding Administrative Law Judge, within 20 days after this Order is released.

7. Coast TV did not include Section V-G, FCC Form 301 with its application. Coast will be required to amend its application to submit Section V-G to the presiding Administrative Law Judge, within 20 days after this Order is released.

8. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public

interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

9. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to each of the applicants, except Wilshire District Broadcasting Co., Inc., whether there is a reasonable possibility that the tower height and location proposed by each would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

10. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

11. It is further ordered, That, in the event that Wilshire District Broadcasting Co., Inc. is the successful applicant for Channel 38, the construction permit shall be conditioned as follows:

Prior to construction of the tower authorized herein, permittee shall notify AM Station KIST, Santa Barbara, California, so that that station may commence determining operating power by the indirect method. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation pattern of the AM station. Both prior to construction of the tower and subsequent to the installation of all appurtenances thereon, antenna impedance measurements of the AM station shall be made and sufficient field strength measurements, taken at a minimum of 10 locations along each of eight equally spaced radials, shall be made to establish that the AM radiation pattern is essentially omnidirectional. Prior to or simultaneous with the filing of the application for license to cover this permit, the results of the filed strength measurements and the impedance measurements shall be submitted to the Commission in an application for the AM station to return to the direct method of power determination.

12. It is further ordered, That, in the event that Santa Barbara 38 Broadcast Group Limited Partnership is the successful applicant for Channel 38, the construction permit shall be conditioned as follows:

During the installation of the antenna authorized herein, AM Station KBLS, Santa Barbara, California, shall determine operating power by the indirect method and, if necessary, request temporary authority from the Commission in Washington to operate with parameters at variance in order to maintain monitoring point values within authorized limits. Upon completion of the installation, common point impedance measurements on the AM array shall be made and a partial proof of performance, as defined by Section 73.154(a) of the Commission's Rules, shall be conducted to establish that the AM array has not been adversely affected and, prior to or simultaneous with the filing of the application for license to cover this permit, the results submitted to the Commission (along with a tower sketch of the installation) in an application for the AM station to return to the direct method of power determination.

13. It is further ordered, That Coast TV and Santa Barbara 38 Broadcast Group Limited Partnership shall each submit an amendment providing the information required by § 73.685(f) of the Commission's Rules, to the presiding Administrative Law Judge and a copy to TV Branch, Mass Media Bureau, within 20 days after the release date of this Order.

14. It is further ordered, That Coast TV shall submit an amendment to correct the maximum visual effective radiated power shown in Section V-C item 3, FCC Form 301, and a copy of Section V-G, FCC Form 301, to the presiding Administrative Law Judge, within 20 days after this Order is released.

15. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

16. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

*Video Services Division, Mass Media Bureau.*

[FR Doc. 84-26607 Filed 10-5-84; 8:45 am]

BILLING CODE 6712-01-M

<sup>1</sup> SB 38 tabulated its pattern in terms of power, not relative field as required by Section 73.685(f).

**FEDERAL EMERGENCY  
MANAGEMENT AGENCY****North Carolina; Amendment To Notice  
of a Major-Disaster Declaration****[FEMA-724-DR]****AGENCY:** Federal Emergency  
Management Agency.**ACTION:** Notice.**SUMMARY:** This notice amends the  
Notice of a major disaster for the State  
of North Carolina (FEMA-724-DR),  
dated September 21, 1984, and related  
determinations.**DATED:** October 2, 1984.**FOR FURTHER INFORMATION CONTACT:**  
Sewall H.E. Johnson, Disaster  
Assistance Programs, Federal  
Emergency Management Agency,  
Washington, D.C. 20472, (202) 287-0501.**NOTICE**

The notice of a major disaster for the  
State of North Carolina, dated  
September 21, 1984, is hereby amended  
to include the following area among  
those areas determined to have been  
adversely affected by the catastrophe  
declared a major disaster by the  
President in his declaration of  
September 21, 1984: Sampson County for  
Public Assistance.

(Catalog of Federal Domestic Assistance No.  
83.516, Disaster Assistance)

Samuel W. Speck,

Associate Director, State and Local Programs  
and Support, Federal Emergency  
Management Agency.

[FR Doc. 84-26558 Filed 10-5-84; 8:45 am]

BILLING CODE 6718-02-M

**[FEMA-726-DR]****Texas; Notice of Major Disaster and  
Related Determinations****AGENCY:** Federal Emergency  
Management Agency.**ACTION:** Notice.**SUMMARY:** This is a notice of the  
Presidential declaration of major  
disaster for the State of Texas (FEMA-  
726-DR), dated October 2, 1984, and  
related determinations.**DATE:** October 2, 1984.**FOR FURTHER INFORMATION CONTACT:**  
Sewall H.E. Johnson, Disaster  
Assistance Programs, Federal  
Emergency Management Agency,  
Washington, D.C. 20472 (202) 287-0501.**Notice**

Notice hereby given that, in a letter of  
October 2, 1984, the President declared a  
major disaster under the authority of the

Disaster Relief Act of 1974, as amended  
(42 U.S.C. 5121 *et seq.*, Public Law 93-  
288), as follows:

I have determined that the damage in  
certain areas of the State of Texas, resulting  
from severe storms and flooding beginning on  
or about September 16, 1984, is of sufficient  
severity and magnitude to warrant a major-  
disaster declaration under Public Law 93-288.  
I therefore declare that such a major disaster  
exists in the State of Texas.

In order to provide Federal assistance, you  
are hereby authorized to allocate, from funds  
available for these purposes, such amounts  
as you find necessary for Federal disaster  
assistance and administrative expenses.  
Consistent with the requirement that Federal  
assistance be supplemental, any Federal  
funds provided under Pub. L. 93-288 for  
Public Assistance will be limited to 75  
percent of total eligible costs in the  
designated area.

The time period prescribed for the  
implementation of Section 313(a),  
priority to certain application for public  
facility and public housing assistance,  
shall be for a period not to exceed six  
months after the date of this declaration.

Notice is hereby given that pursuant  
to the authority vested in the Director of  
the Federal Emergency Management  
Agency under Executive Order 12148,  
and redelegated to me, I hereby appoint  
Mr. Alton S. Ray of the Federal  
Emergency Management Agency to act  
as the Federal Coordinating Officer for  
this declared disaster.

I do hereby determine the following  
areas of the State of Texas to have been  
affected adversely by this declared  
major disaster: Cameron County for  
Individual Assistance and Public  
Assistance.

(Catalog of Federal Domestic Assistance No.  
83.516, Disaster Assistance)

Samuel W. Speck,

Associate Director, State and Local Programs  
and Support, Federal Emergency  
Management Agency.

[FR Doc. 84-26559 Filed 10-5-84; 8:45 am]

BILLING CODE 6718-02-M

**FEDERAL MARITIME COMMISSION****[Docket No. 84-33]****Section 19 Inquiry—United States/  
Argentina and United States/Brazil  
Trades; Order of Investigation**

Pursuant to the authority of section  
19(1)(b), Merchant Marine Act, 1920 (46  
U.S.C. app. 876), as implemented by 46  
CFR Part 585,<sup>1</sup> the Commission is

<sup>1</sup> 46 CFR Part 506 prior to June 18, 1984.

instituting this proceeding to determine  
whether general or specific conditions  
unfavorable to shipping exist in the  
foreign trade of the United States with  
Argentina, and in the foreign trade of  
the United States with Brazil.<sup>2</sup>

The Commission has become  
increasingly concerned with the  
competitive situation in the trades  
between the U.S. and Argentina and the  
U.S. and Brazil. Problems have been  
encountered by certain carriers, both  
U.S.-flag<sup>3</sup> and third-flag,<sup>4</sup> as well as by  
shippers,<sup>5</sup> in these trades.

In the past, the Commission focused  
its attention on the various commercial  
pooling agreements among the carriers  
serving the trade. *See e.g., Cargo  
Revenue Pooling Agreements in the  
United States/Brazil/Argentina Trades*,  
22 S.R.R. 801 (Order of April 19, 1984);  
*Cargo Revenue Pooling Agreements in  
the United States/Brazil/Argentina  
Trades*, 22 S.R.R. 609 (Order of  
December 23, 1983); *Agreement Nos.  
10386, as amended, and 10382, as  
amended—Cargo Revenue Pooling/  
Equal Access Agreements in the United  
States/Argentina Trades*, 21 S.R.R. 513  
(Order Partially Adopting Initial

<sup>2</sup> On September 19, 1984, the Commission  
determined to institute this proceeding and directed  
the preparation of this Order. Subsequent to that  
decision, A/S Ivarans Rederi (Ivarans)  
independently filed a petition under section 19 for  
relief in the U.S./Argentina trade. The Commission  
is considering that petition as a separate matter.

<sup>3</sup> Sea-Land Service, Inc., in the late 1970's,  
encountered difficulties when it decided to enter the  
United States-Brazil trade. Although Sea-Land  
subsequently became a member of certain pooling  
agreements in the trade, it never became an active  
participant. Another U.S.-flag carrier, American  
Atlantic Lines, left the U.S. Brazil/Amazon Basin  
Trade in 1983 after a lengthy struggle to  
accommodate itself to Brazilian legal requirements  
to join the Inter-American Freight Conference and  
to negotiate a pool with the Brazilian carrier serving  
the trade. Over several years, American Atlantic  
was unable to complete negotiations for a pool  
share, was required to obtain waivers to carry many  
shipments and consequently abandoned the trade.

<sup>4</sup> Ivarans, a Norwegian-flag carrier, has on a  
number of occasions alleged that it has been unable  
to negotiate a fair share of the pooling agreement in  
the trade from Argentina to the U.S. Atlantic Coast.  
The issue was litigated in *Agreement Nos. 10380, as  
amended, and 10382, as amended—Cargo Revenue  
Pooling/Equal Access Agreements in the United  
States/Argentina Trades*, 21 S.R.R. 513 (Order  
Partially Adopting Initial Decision, 1982);  
*Agreements 10346 and 10349, Cargo Revenue  
Pooling and Sailing Agreements*, 21 F.M.C. 1100  
(1979), and is now the subject of the section 19  
petition filed by Ivarans referred to above.

<sup>5</sup> Since Fall 1983, a number of shippers and  
associations of shippers, including Chemical  
Manufacturers Association, K Mart Corporation,  
Dow Chemical Co., Goodyear Tire & Rubber  
Company and Caterpillar Tractor Co., have  
expressed varying degrees of concern regarding  
transportation conditions in the trades. These  
concerns were expressed in connection with  
comments filed in response to the proposed  
extension of existing pooling arrangements.



Decision, 1982); *Agreements 10346 and 10349, Cargo Revenue Pooling and Sailing Agreements*, 21 F.M.C. 1100 (1979). Difficulties with the pooling agreements may, however, only be manifestations of underlying problems created by the laws, decrees, resolutions and practices of the Governments of Argentina and Brazil intended to reserve to their respective national lines a fixed percentage of the cargo in the trades and otherwise limit the free access to cargo. These laws, decrees, resolutions and other governmental practices may have resulted in the development of shipping regimes which are less flexible and responsive to the commercial needs of exporters, importers and carriers than is desirable.

The principal cargo reservation law of Argentina is Law 18.250 of June 10, 1969, as amended in 1972 by Law 19.877. The law applies to all goods imported by or for the account of or destined to the national government, the provincial governments or the local governments (and all departments of any of these entities), state-owned corporations, and corporations in which the state (or provinces or local governments) have a controlling interest. In addition, the reservation in favor of the Argentine-flag carriers applies to any goods whose importation is financed or guaranteed by any credit company of the state-owned banking system, and any import enjoying exchange, tax, or customs duty franchises, or any other type of fiscal benefit.

Law 18.250, as amended by 19.877, allows for participation by vessels of the exporting nation, but only where there are intergovernmental or private agreements approved by the government which establish a participation in favor of the Argentine-flag carriers of no less than 50 percent of the freight revenues earned.

In December 1976, the State Secretariat of Maritime Interests of Argentina promulgated Resolution No. 507 which was implemented on January 19, 1977. Resolution 507 changed the mechanics of obtaining waivers and required almost all of the southbound cargo in the United States/Argentina trade to be offered to an Argentine national-flag carrier. Instead of general waivers, waivers were considered on a case-by-case basis.

In order to participate in the carriage of cargo subject to Laws 18.250 and 19.877 and Resolution 507, U.S.-flag carriers entered into pools with the Argentine national-flag carrier. Non-national flag carriers cannot join the southbound pool and may not be able to participate in the carriage of cargo subject to Laws 18.250 and 19.877. This

may prevent non-national flag carriers from competing in the southbound trades from U.S. East and Gulf Coasts to Argentina.

Law 20.477 establishes the Argentine merchant marine as an instrument of national economic policy and affirms Argentina's right to carry 50 percent of its export waterborne cargo in Argentine-flag vessels. Resolution 619 provides that all Argentine export cargoes shall be carried by conference members or members of a pooling agreement. In practice, Resolution 619 may prevent carriers from competing in the northbound trade from Argentina to the United States unless they are members of a pooling or conference agreement. If this is in fact the case, Resolution 619 may result in discrimination between pool members and those that would serve the trade outside the pool or conference. In addition, if a non-national flag carrier has no viable alternative to pool membership, a majority of non-national flag lines negotiating a pool may dilute the share or shares to be allotted to the minority. Thus, there is the possibility that Resolution 619 may discriminate against some non-national flag members of the pools.

Brazil's principal cargo reservation law is Decree No. 666 of July 2, 1969. Decree 666 as amended provides, among other things, that all cargoes imported by any direct or indirect agency of the federal, state or municipal governments of Brazil or by wholly or partially government-owned companies, as well as all cargoes imported with any governmental benefits or acquired with financing by governmental credit agencies, shall be transported exclusively by Brazilian-flag vessels. With regard to Brazilian exports, Decree 666 similarly requires that cargoes exported with any type of government benefit, are required to be transported in Brazilian-flag vessels. Up to 50% of both controlled imports and exports may be released to the bilateral trading partner, if the latter reciprocally allows 50% of its government-controlled imports and exports to be carried on Brazilian-flag vessels. The government also reserves the right to designate third-flag carriers when there is a shortage of vessels from either trading partner.

The Brazilian maritime agency SUNAMAM (National Superintendency of the Merchant Marine) promulgated several resolutions during the 1960's and 70's which, in effect, provided that Brazilian coffee and cocoa exports would be considered as controlled cargo.

Brazilian Decree 78.986 of December 1976, grants fiscal benefits to Brazilian exporters, to the extent that they use

Brazilian-flag vessels for carriage of their exports. Such fiscal incentives will also be granted to exporters who ship on the bilateral trading partner's vessels if an intergovernmental agreement exists with that country. Resolution 5216 of February 1977, specifically allows Brazilian shippers to use U.S.-flag lines in the U.S./Brazil trade and receive the same financial benefits as when using Brazilian-flag lines.

Brazilian Resolution No. 3023 of August, 1967 provided that Brazilian liner cargo exports destined for the United States or Canada would be carried exclusively by carriers belonging to the Inter-American Freight Conference. On August 2, 1984, SUNAMAM cancelled this resolution. The status of non-conference lines, while apparently improved, remains unclear because Resolution No. 8364/84, which cancelled Resolution No. 3023, states that "shipping companies can only operate according to concessions granted to them."

These laws, decrees, resolutions and other governmental practices may create conditions unfavorable to shipping in the trades between the United States and Argentina and the United States and Brazil within the meaning of section 19 of the Merchant Marine Act, 1920 and 46 CFR Part 555.<sup>6</sup> The Commission is instituting this proceeding to determine if such conditions exist.

The Commission recognizes that its planned investigation encompasses the laws, decrees, resolutions and practices of two distinct sovereign nations, and does not mean to imply that the conditions in the Brazil and Argentina trades are identical. However, as a practical matter, because the transportation patterns of these two trades are inextricably linked, and because the governmental and

<sup>6</sup>Recently, the Commission has addressed certain restrictive laws of the Governments of Venezuela and the Philippines which were similar in their effects to those of Argentina and Brazil. After receiving complaints about restrictions on access to cargo and limitations on the ability of shippers to select the carrier of their choice, because of certain laws of Venezuela and the Philippines, the Commission instituted section 19 proceedings in those trades and proposed rules to remedy the situation. See *Actions to Adjust or Meet Conditions Unfavorable to Shipping in the United States/ Republic of Philippines Trade*, 43 FR 45329, October 7, 1983; *Actions to Adjust or Meet Conditions Unfavorable to Shipping in the United States/ Venezuela Trade*, 47 FR 55593, December 14, 1982. Intern Report dated February 25, 1983. The Congress of the United States also has expressed its concern about restrictive cargo-access schemes in the Shipping Act of 1934 (46 U.S.C. app. § 1701, et seq.). Section 13(b)(5) of that Act (46 U.S.C. app. § 1712(b)(5)), gives the Commission the authority to take necessary measures if the operators of U.S.-flag vessels find their access to foreign-to-foreign trade unduly impaired.



commercial regimes which control them are generally similar, the Commission believes it logical to consider these trades together in its investigation.

Therefore, it is ordered that, pursuant to section 19(1)(b) of the Merchant Marine Act, 1920, and 46 CFR Part 585, the Federal Maritime Commission hereby institutes a proceeding for the purpose of: (1) Determining whether, in fact, unfavorable conditions exist in the foreign oceanborne trade between the United States and Argentina and/or between the United States and Brazil; and (2) if such conditions are found to exist, fashioning an appropriate remedy;

It is further ordered That the matter be assigned for hearing and decision by an administrative law judge of the Commission's Office of Administrative Law Judges;

It is further ordered That the Presiding Administrative Law Judge shall in his discretion determine the type of hearing most appropriate to the achievement of the purposes of this proceeding and shall issue the necessary orders for the conduct of such proceeding. For the purposes of this proceeding, the Presiding Administrative Law Judge is delegated the authority to require the submission of reports under section 15(a) of the Shipping Act of 1984 (46 U.S.C. app. 1714(a));

It is further ordered, That the Presiding Administrative Law Judge issue an initial decision on or before April 4, 1985;

It is further ordered, That the Director of the Commission's Bureau of Hearing Counsel be a party to this proceeding;

It is further ordered, That other persons having an interest in participating in this proceeding may file petitions for leave to participate. Such participation shall be determined by the Presiding Administrative Law Judge;

It is further ordered, That all future notices, orders, or decisions issued in this proceedings, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record; and

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in accordance with Rule 118 of the Commission's Rules of Practice and Procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-26549 Filed 10-5-84; 8:45 am].

BILLING CODE 6730-01-M

## FEDERAL RESERVE SYSTEM

### Edmonton Bancshares, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 29, 1984.

A. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Edmonton Bancshares, Inc.*, Edmonton, Kentucky; to become a bank holding company by acquiring at least 88.1 percent of the voting shares of Peoples Bank of Tompkinville, Tompkinville, Kentucky. Comments on this application must be received not later than October 12, 1984.

2. *First Arkansas Bankstock Corporation*, Little Rock, Arkansas; to acquire at least 88.06 percent of the voting shares of The First National Bank of Fayetteville, Fayetteville, Arkansas.

3. *FSB Corporation*, Sullivan, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers State Bank of Sullivan, Sullivan, Indiana.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President)

925 Grand Avenue, Kansas City, Missouri 64198:

1. *Colorado National Bankshares, Inc.*, Denver, Colorado; to acquire 100 percent of the voting shares of Longmont National Bankshares, Inc., Longmont, Colorado, thereby indirectly acquiring Longmont National Bank, Longmont, Colorado.

C. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Western Bancshares, Inc.*, Duncanville, Texas; to acquire 100 percent of the voting shares of First Continental National Bank, Houston, Texas.

2. *Vidor Bancorporation, Inc.*, Vidor, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of First Texas Bank, Vidor, Texas.

Board of Governors of the Federal Reserve System, October 2, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-26550 Filed 10-5-84; 8:45 am]

BILLING CODE 6210-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control

#### Longitudinal Study of Human Semen Characteristics; Open Meeting; Cancellation

The notice of a meeting on Longitudinal Study of Human Semen Characteristics, to be held October 11, 1984, was published in the Federal Register (49 FR 36018) on Thursday, September 13, 1984. This open meeting is cancelled until further notice.

Dated: October 1, 1984.

James O. Mason,

Director, Centers for Disease Control.

[FR Doc. 84-26544 Filed 10-5-84; 8:45 am]

BILLING CODE 4160-19-M

## Food and Drug Administration

[Docket No. 84F-0326]

### American Cyanamid Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.  
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that American Cyanamid Co. has filed a petition proposing that the food additive regulations be amended to provide for

the safe use of 1, 3-butylene glycol (1,3-butanediol) as an energy source for sows.

**FOR FURTHER INFORMATION CONTACT:**

William D. Price, Center for Veterinary Medicine (HFV-221), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5362.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2196) has been filed by American Cyanamid Co., Wayne, NJ 07470, proposing that the food additive regulations be amended to provide for the safe use of 1,3-butylene glycol (1,3-butanediol) as an energy source for sows.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c) (proposed Dec. 11, 1979; 44 FR 71742).

Dated: September 27, 1984.

Gerald B. Guest,

*Acting Director, Center for Veterinary Medicine.*

[FR Doc. 84-26552 Filed 10-5-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84F-0314]

**Coconut Products Corp.; Filing of Food Additive Petition**

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that the Coconut Products Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of polysorbate 60 as an emulsifier to be used in preparation of coconut milk drink..

**FOR FURTHER INFORMATION CONTACT:**

Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 4A3824) has been filed by the Coconut Product Corp., 779 Kii Street, Honolulu, HI 96825, proposing

that § 172.836 *Polysorbate 60* (21 CFR 172.836) be amended to provide for the safe use of polysorbate 60 as an emulsifier in preparation of coconut milk drink.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c) (proposed Dec. 11, 1979; 44 FR 71742).

Dated: September 28, 1984.

Sanford A. Miller,

*Director, Center for Food Safety and Applied Nutrition.*

[FR Doc. 84-26550 Filed 10-5-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84F-0317]

**McCormick & Co., Filing of Food Additive Petition**

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that McCormick & Co., Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of a source of gamma radiation to control insect and microbial contamination in certain dried spices and dried vegetable seasonings at doses not to exceed 3 megarads (Mrad).

**FOR FURTHER INFORMATION CONTACT:**

Clyde A. Takeguchi, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 4M3816) has been filed by McCormick & Co., Inc., 11350 McCormick Rd., Hunt Valley, MD 21031-1066, proposing that Part 179—Irradiation in the Production, Processing and Handling of Food (21 CFR Part 179) be amended to provide for the safe use of a Cobalt 60 or Cesium 137 source of gamma radiation to control insect and microbial infestation in certain dried spices and dried vegetable seasonings by increasing the maximum permitted dose from 1 to 3 Mrad.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental

impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c) (proposed Dec. 11, 1979; 44 FR 71742).

Dated: September 27, 1984.

Richard J. Ronk,

*Acting Director, Center for Food Safety and Applied Nutrition.*

[FR Doc. 84-26553 Filed 10-5-84; 8:45 am]

BILLING CODE 4160-01-M

**National Institutes of Health**

**Meeting of Clinical Trials Review Committee**

Pursuant to Pub. L. 92-463, notice is hereby given of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, November 26-29, 1984 at the Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland 20814.

This meeting will be open to the public on November 26, 1984, from 7:00 p.m. to approximately 8:00 p.m. to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 26 from approximately 8:00 p.m. to recess, and from 8:00 a.m. on November 27 to adjournment on November 29, for the review, discussion and evaluation of individual grant applications. These applications, and the discussions could reveal personal information concerning individuals associated with these applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Therefore, this meeting is concerned with matters exempt from mandatory disclosure under section 552b(c)(6) of Title 5, U.S. Code.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Bethesda, Maryland, 20205, Building 31, Room 4A-21, phone (301) 496-4236, will provide summaries of the meeting and rosters of the Committee members. Dr. Norman S. Braveman, Contracts, Clinical Trials and Training Review Section, Division of Extramural Affairs, NHLBI, Westwood Building, Bethesda, Maryland 20205,

Room 550B, phone (301) 496-7361, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, also 13.838, Division of Lung Diseases National Institutes of Health.)

Dated: September 27, 1984.

Betty J. Beveridge,

*NIH Committee Management Officer.*

[FR Doc. 84-26567 Filed 10-5-84; 8:45 am]

BILLING CODE 4140-01-M

### Meeting of Heart, Lung, and Blood Research Review Committee A

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee A, National Heart, Lung, and Blood Institute, National Institutes of Health, on December 6, 1984, in Building 31, Conference Room 7, 9000 Rockville Pike, Bethesda, Maryland 20205.

This meeting will be open to the public on December 6, 1984 from 8:30 AM to approximately 9:30 AM to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on December 6, from approximately 9:30 AM until adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Peter M. Spooner, Executive Secretary, Heart, Lung, and Blood Research Review Committee A, Westwood Building, Room 554, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-7265, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; National Institutes of Health)

Dated: September 27, 1984.

Betty J. Beveridge,

*NIH Committee Management Officer.*

[FR Doc. 84-26568 Filed 10-8-84; 8:45 am]

BILLING CODE 4140-01-M

### Meeting of Heart, Lung, and Blood Research Review Committee B

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee B, National Heart, Lung, and Blood Institute, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, on December 6, 1984, in Building 31, Conference Room 9.

This meeting will be open to the public on December 6, 1984, from 8:30 a.m. to approximately 10:00 a.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on December 6, 1984, from approximately 10:00 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-4236, will provide summaries of the meetings and rosters of the committee members.

Dr. Louis M. Ouellette, Executive Secretary, NHLBI, Westwood Building, Room 554, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-7915, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: September 27, 1984.

Betty J. Beveridge,

*NIH Committee Management Officer.*

[FR Doc. 84-26569 Filed 10-5-84; 8:45 am]

BILLING CODE 4140-01-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[OR 37197, OR 37198, OR 37199]

### Oregon; Notice of Realty Action; Modified Competitive Sale of Public Land in Jackson County, OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Modified Competitive Sale of Public Land in Jackson County, Oregon.

The following revested Oregon and California Railroad Grant (O&C) Land has been examined and identified as being suitable for disposal by public sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713), at no less than the appraised fair market value shown. The parcels are difficult and uneconomical to manage as part of the public lands and are not suitable for management by another Federal department or agency. The sale is consistent with Bureau planning efforts, and the public interest will be served by offering these parcels for sale.

The following parcels of land will be offered for sale using modified competitive bidding procedures (43 CFR 2711.3-2).

Serial No. and designated bidder	Legal description	Acres	Value
OR 37197—Mr. & Mrs. Richard Troon, Mr. & Mrs. Melvin Saul, Mr. & Mrs. Charles W. Sears.	T.37S., R.4W., WM; Sec. 31; Lot 1;	0.78	\$400
OR 37198—Mr. & Mrs. Richard Troon, Mr. & Mrs. Melvin Saul, Mr. & Mrs. Gerald E. Kubil, Mr. & Mrs. Charles W. Sears.	T.37S., R.4W., WM; Sec. 31; Lot 3;	4.87	\$2,400
OR 37199—Messrs. John & Frank Brown, K. & Josephine Kubil, Mr. & Mrs. David Simmons, Mrs. Vance Kubil, Hal Skudstad, Grace Fenner, Marilyn Nelson.	T.37S., R.4W., WM.....	14.77	\$4,250

Except for the provisions of section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2740; 43 U.S.C. 1713), the above described lands are hereby segregated from appropriation and the public land laws, including the mining laws.

### Modified Competitive Sale Procedure

The sale will be held on December 5, 1984, at 1:00 p.m. in the Medford

District's Oregon Room, 3040 Biddle Road, Medford, Oregon 97504.

The parcels serialized as OR 37197, OR 37198 and OR 37199, will be offered for sale by sealed bids only, using modified competitive bidding procedures. Preference rights are being offered to the contiguous landowners, which have been identified as designated bidders. Bids will be accepted only from the designated bidders. To exercise the preference right, the designated bidder must submit a proper bid. Failure to submit a proper bid, at the time of sale will constitute a waiver of the preference right. No bid will be accepted for less than the appraised value.

Sealed bids must be accompanied by certified check, postal money order, bank draft, or cashier's check made payable to the Department of the Interior—BLM for not less than thirty percent (30%) of the amount bid. The sealed envelope must be clearly marked "Bid for Public Land Sales, Sale Parcel No. OR 3719—, Jackson County, Oregon, December 5, 1984.

If two or more envelopes are received containing valid bids of the same amount, the successful bid will be determined by drawing. The drawing will be held by the authorized officer immediately following the opening of the bids.

The successful bidder will be required to pay the remainder of the sale price within 180 days. Failure to submit the full sale price within 180 days will disqualify the apparent high bidder and the thirty percent (30%) will be forfeited and disposed of as other receipts of the sale. The land will then be offered to the next highest bidder.

All bids will be either returned, accepted, or rejected within 30 days of the sale date according to 43 CFR 2711.3-1(f)(g). If the parcels are not sold they will be withdrawn from public sale.

Sealed bids, delivered or sent by mail, must be received at the BLM, Medford District Office, 3040 Biddle Road, Medford, Oregon 97504 before 11:30 a.m., December 5, 1984.

Federal law requires that all bidders be U.S. citizens, 18 years of age or more, a state or state instrumentality authorized to hold property, or in the case of corporations, be authorized to own real estate in the state in which the sale is offered.

#### Terms and Conditions

Patents issued as a result of the sale will be subject to all valid existing rights and will contain the following reservations:

1. A right-of-way thereon for ditches and canals constructed by the authority

of the United States Act of August 30, 1980 (26 Stat. 391; 43 U.S.C. 945)

2. All minerals will be reserved to the United States (43 U.S.C. 1719)

3. Parcel serialized Number OR 37199 (Lot 9) will be subject to a reservation for Jackson County's Kubli Road (43 U.S.C. 1719)

Detailed information concerning the sale, including the planning documents, environmental assessment, land report and fair market appraisal, is available for review at the Bureau of Land Management, Medford District Office, 3040 Biddle Road, Medford, Oregon 97504, or by calling Ward Brookwell, Area Realty Specialist, (503) 776-4274.

For a period of 45 days from the date of this notice, interested parties may submit comments regarding the proposed action. Comments shall reference Serial Numbers of the parcels. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: October 1, 1984.

Hugh R. Shera,

*District Manager.*

[FR Doc. 84-28562 Filed 10-5-84; 8:45 am]

BILLING CODE 4310-33-M

#### [OR 37188]

#### Oregon; Notice of Realty Action, Direct Sale of Public Land in Douglas County, OR

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Direct Sale of Public Land in Douglas County, Oregon.

The following revested Oregon and California Railroad Grant (O&C) Land has been examined and identified as being suitable for disposal by sale under section 203 and 209(b) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713; 43 U.S.C. 1719), at no less than the appraised fair market value.

Bidder	Legal description	Acres	Value
Douglas County, OR.	T. 31 S., R. 4 W., W.1/4 Mer.; Sec. 28, SW1/4 NE1/4.	40	\$14,000

Except for the provisions of section 203 of the Federal Land Policy and Management Act of 1976, (90 Stat. 2750; 43 U.S.C. 1713), the above described lands are hereby segregated from

appropriation under the public land laws, including the mining laws.

The sale will be held on Wednesday, December 5, 1984 at 1:00 p.m. in the Medford District's Oregon Room, 3040 Biddle Road, Medford, Oregon 97504.

The sale is consistent with publicly supported Bureau planning. The sale involves an isolated parcel surrounded by private land. The parcel is difficult and uneconomical to manage and is not suitable for management by another Federal department or agency. The public interest would be served by offering this land for sale. The subsurface mineral interests are of no known value and will be sold simultaneously with the surface.

#### Direct Sale Procedure

The parcel identified by Serial No. OR 37188 is being offered using direct sale procedures (43 CFR 2711.3-2(b)). The land will be sold at fair market value to Douglas County. If the parcel is not sold, it will be withdrawn from public sale.

Federal law requires that all bidders be U.S. Citizens, 18 years of age or more, a state or state instrumentality authorized to hold property, or in the case of corporations, be authorized to own real estate in the state in which the sale is offered. Proof of these requirements shall accompany all sale bids.

#### Terms and Conditions of This Sale Are:

1. Douglas County will be required to submit a deposit of either cash, bank draft money order, or any combination, for not less than 20 percent of the appraised value and a \$50.00 non-refundable filing fee to cover administrative costs in the conveyance of the mineral interests (43 CFR 2720.1-2(c)). The remainder of the full appraised price must be submitted prior to the expiration of 180 days from the date of the sale. Failure to submit the remainder of the full appraised price shall result in the cancellation of the sale and forfeiture of the 20 percent deposit.

2. Acceptance or rejection of Douglas County's offer to purchase will be in writing within 30 days from the date of the sale. Prior to the expiration of this 30 day period, the Authorized Officer conducting this sale may refuse to accept the offers or may withdraw the tract of public land from sale according to 43 CFR 2711.3-1 (f) and (g).

3. Reservations to the title or patent shall be as follows:

a. The parcel will be subject to all existing rights (93 U.S.C. 1718): Telephone line right-of-way (OR 37404);

and electrical line right-of-way (OR 37144).

b. The right to access and development for ditches and canals on behalf of the United States shall be reserved (43 U.S.C. 945).

Detailed information concerning the sale, including the planning documents, environmental assessment, land report and fair market appraisal, is available for review at the Bureau of Land Management, Medford District Office, 3040 Biddle Road, Medford, Oregon 97504, or by calling Matt Craddock, Area Realty Specialist, (503) 778-3909.

For a period of 45 days from the date of this notice, interested parties may submit comments regarding the proposed action. Comments shall reference Serial Number OR 37188. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: October 1, 1984.

Hugh R. Shera,  
District Manager.

[FR Doc. 84-26563 Filed 10-5-84; 8:45 am]

BILLING CODE 3410-33-M

[OR 37195]

### Oregon; Notice of Realty Action Competitive Sale of Public Land in Klamath County, OR

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Competitive Sale of Public Land in Klamath County, Oregon.

The following Public Domain Land has been examined and identified as being suitable for disposal by public sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713), at no less than the appraised fair market value shown. The parcel is isolated, difficult and uneconomical to manage as part of the public lands and are not suitable for management by another Federal department or agency. The sale is consistent with the Bureau's planning efforts and the public interest will be served by offering this land for sale.

The following parcel of land will be offered for sale using competitive bid procedures (43 CFR 2711.3-1):

Legal description	Acreage	Appraisal value
T. 40 S., R. 8 E., Will. Mer., sec. 17: SW¼SE¼.....	40.0	\$16,000

Except for the provisions of section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713), the above described land is hereby segregated from appropriation and the public land laws, including the mining laws.

#### Sales Procedure

The sale will be held on December 5, 1984, at 1:00 p.m. in the Medford District's Oregon Room, 3040 Biddle Road, Medford, Oregon 97504.

Sealed written bids will be considered only if received by the Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97504, before 11:30 a.m. on December 5, 1984, the date of the opening.

All bidders must be 18 years of age or over and U.S. citizens, a state or state instrumentality authorized to hold property, or in the case of corporations, be authorized to own real estate in the state in which the sale is being offered. Proof of these requirements shall accompany all sale bids.

A written bid should be submitted and accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Department of the Interior—BLM for at least thirty percent (30%) of the amount bid and shall be enclosed in a sealed envelope clearly marked "Bid for Public Land Sales, Sale Parcel Number OR 37195 Klamath County, Oregon, December 5, 1984."

If two or more envelopes are received containing valid bids of the same amount, the successful bid will be determined by drawing. The drawing will be held by the authorized officer immediately following the opening of the bids.

The successful bidder will be required to pay the remainder of the sale price within 180 days. Failure to submit the full sale price within 180 days will disqualify the apparent high bidder and the thirty percent (30%) will be forfeited and disposed of as other receipts of the sale. The land will then be offered to the next highest bidder.

All bids will be either returned, accepted, or rejected within 30 days of the sale date.

If the parcel is not sold on the day of the sale it will remain available for sale until sold. Sealed bids will be solicited on the parcel at the Medford District Office during regular business hours (8:00 a.m. to 4:45 p.m.). The sealed bids

will be opened January 4, 1985 and every first Friday of each subsequent month until the land is sold.

#### Terms and Conditions

Patent issued as a result of the sale will be subject to all valid and existing rights and will contain the following reservation:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

2. All minerals will be reserved to the United States (43 U.S.C. 1719).

Detailed information concerning the sale, including the planning documents, environmental assessment, land report and fair market appraisal is available for review at the Bureau of Land Management, Medford District Office, 3040 Biddle Road, Medford, Oregon 97504, or by calling Don Kreitner, Area Realty Specialist at (503) 776-3923.

For a period of 45 days from the date of this notice, interested parties may submit comments regarding the proposed action. Comments shall reference Serial Number OR 37195. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: October 1, 1984.

Hugh R. Shera,  
District Manager.

[FR Doc. 84-26564 Filed 10-5-84; 8:45 am]

BILLING CODE 4310-33-M

#### Fish and Wildlife Service

##### Preparation of Environmental Impact Statement on Proposal To Issue a Section 10a Incidental Take Permit for the Coachella Valley Fringe-toed Lizard (*Uma inornata*)

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of intent.

**SUMMARY:** The U.S. Fish and Wildlife Service has under consideration a proposal to issue a Section 10a incidental take permit for the threatened Coachella Valley fringe-toed lizard in response to a permit request from the Riverside County Board of Supervisors. The permit request is accompanied by a proposal described in a Habitat Conservation Plan that details steps to be taken to ensure the continued existence of the Coachella Valley fringe-

toed lizard, *Uma inornata*, while allowing for incidental take. In response to this permit request and the accompanying proposal, the Service intends to prepare an environmental impact statement (EIS). This notice describes the proposed action and possible alternatives, outlines the scoping process that will be employed in preparing the EIS, and identifies the Service officials to whom questions and comments concerning the proposed action and EIS may be directed.

**DATE:** A scoping meeting will be held at the following location on the date and time indicated:

*Date, Time, and Location*

October 25, 1984; 7-10 p.m.; City Council Chambers, 3200 East Tahquitz-McCallum, Palm Springs, California 92263

**ADDRESSES:** Questions and comments should be addressed to Gail C. Kobetich, U.S. Fish and Wildlife Service, Division of Endangered Species, Room E-1823, 2800 Cottage Way, Sacramento, CA 95825-1846 (telephone 916/484-4935; FTS 468-4935).

**FOR FURTHER INFORMATION CONTACT:**

Gail C. Kobetich at the address and telephone number stated above.

Persons desiring to participate in the scoping meeting should contact Mr. Kobetich in writing as soon as possible, indicating the issue(s) of concern regarding the EIS. Interested persons may also participate in the scoping process by submitting written comments to Mr. Kobetich at the address above. Interested persons are reminded that the primary purpose of the scoping process is to identify, rather than debate or argue, the significant issues related to a proposed action. Additional public hearings or meetings will be held on later dates in order to provide opportunities to comment on the draft EIS.

**SUPPLEMENTARY INFORMATION:** The Recovery Plan for the Coachella Valley fringe-toed lizard recommends the establishment of two or more large scale preserves that will provide habitat for the continued existence of the lizard. Two preserves, on Bureau of Land Management and Coachella Valley Water District land, are in the process of being established. The U.S. Fish and Wildlife Service is considering a proposal to protect the Coachella Valley fringe-toed lizard that is described in a Habitat Conservation Plan prepared by local governmental jurisdictions in the Coachella Valley. The acquisition and establishment of a third and largest of the preserves (about 14,000 acres) is part of the proposed Habitat Conservation Plan. Those involved in the

implementation of the Habitat Conservation Plan will be The Nature Conservancy, the Bureau of Land Management, the California Department of Fish and Game, the Service, the local governmental jurisdictions, and the local land owners and developers.

The Coachella Valley fringe-toed lizard is listed as a threatened species under the Endangered Species Act, 16 U.S.C. 1531 *et seq.* The proposed preserve and the Habitat Conservation Plan are being considered as a means of promoting the conservation of the species by preserving enough habitat to ensure the long-term survival of the species and by gathering valuable data concerning the species and its ecosystem.

**Description of proposed action.** The proposed action would involve issuance of an "incidental take" permit under section 10(a) of the Endangered Species Act, 16 U.S.C. 1539, to local government agencies that would authorize the "taking" of a lizard pursuant to the "carrying out of an otherwise lawful activity." The proposed action would also involve compliance with the consultation, non-jeopardy, and other provisions of section 7 of the Endangered Species Act, 16 U.S.C. 1536, as well as certain provisions of State law. As currently written, the Habitat Conservation Plan discusses the establishment of preserves, the protection of other habitats by management and zoning, the acquisition of the largest of the preserves, and the collection of data on the ecology of the Coachella Valley fringe-toed lizard.

The rationale for the establishment of three preserves comes from the Recovery Plan prepared by the Recovery Team that had been established by the Fish and Wildlife Service to advise it on the recovery program needed for the Coachella Valley fringe-toed lizard. The Recovery Plan states that for the Service to consider the Coachella Valley fringe-toed lizard secure two or more large scale preserves should be established where the lizard will be protected from man's activities. One of the preserves is being established in the floodplain of the Whitewater River on lands that belong to the Coachella Valley Water District and the Bureau of Land Management. This preserve covers approximately 1,300 acres.

The second preserve is being established on the western flanks of Edom Hill where sand has accumulated on the downwind sides of hills and in depressions such as Willow Hole. This entire preserve is on Bureau of Land Management land and contains approximately 2,000 acres. The Bureau of Land Management is in the process of

designating this preserve as an Area of Critical Environmental Concern, a designation that affords management options compatible with the long-term existence of the Coachella Valley fringe-toed lizard. The third proposed preserve, and the largest, is in the Thousand Palms Canyon area and covers much of the designated critical habitat for the lizard. Because essentially all of this area is in private ownership, it would have to be purchased in order to establish the preserve. The proposed preserve would total approximately 14,000 acres that covers part of the watershed of Thousand Palms Canyon, and most of the alluvial fan at the mouth of the Canyon. Because of the size of the proposed preserve and the expense involved in buying the land from its owners, no single agency or group could sustain the purchase price. Therefore, the local governmental jurisdictions working with their constituency and State and Federal government agencies have proposed a plan of acquisition that is presented in detail in the Habitat Conservation Plan.

This acquisition effort proposes a partnership among the local communities, The Nature Conservancy, the California Department of Fish and Game, the Bureau of Land Management, and the Fish and Wildlife Service to raise the necessary funds for purchase of the preserve. The local communities would raise, over a thirty year period, approximately 10 million dollars through contributions paid when developing land within the range of the Coachella Valley fringe-toed lizard. These contributed funds would be used to buy acreage in the Thousand Palms Preserve. The Nature Conservancy is contributing funds toward the purchase of the preserve and have already required 2,000 acres of the preserve in and around Thousand Palms Oasis. In addition, The Nature Conservancy is participating in the effort by optioning land and acting as the purchasing agent for the local communities, using the contributed funds. The California Department of Fish and Game owns 440 acres in the proposed preserve and is in the process of acquiring more acres. The Bureau of Land Management is in the process of arranging a land swap with the Nature Conservancy and a private landowner that would give the Bureau of Land Management ownership of approximately 8,000 acres of the preserve lands. As these various pieces of the acquisition program fall into place the third and largest of the three preserves would be established.

In addition to the Coachella Valley fringe-toed lizards that will be protected



on the preserve complex, the Habitat Conservation Plan discusses habitat areas where land use practices are compatible with management of the lizard. Such land uses are: wind farm development; water infiltration systems; and, areas along canals or ditches that are not intensively used. Areas that are zoned for open space or for limited use could also be managed for the lizard.

**Possible alternatives.** One alternative would be to require each landowner, who has a development planned within Coachella Valley fringe-toed lizard habitat, to set aside a percentage of his acreage for a preserve and obtain a Section 10(a) permit. This would result in many small preserves scattered throughout the Coachella Valley. While this alternative might protect as many acres as described in the proposed Habitat Conservation Plan, two significant problems are immediately discernible. The first is that the type of habitat required for the Coachella Valley fringe-toed lizard, wind blown sand, would soon disappear because of the lack of additional sand and because of resulting soil stabilization. The lizard needs loose sand in which to burrow to escape predators and the hot midday temperatures. The three large preserves all have a source of sand that would keep the habitat viable into the indefinite future. The second problem with this scheme is that the lizard population would be fragmented into many small populations. These small populations would be more vulnerable to extinctions from a variety of man-caused factors and from a lack of genetic variability than would large populations.

A second alternative would be to establish large preserves south of Interstate 10 in the more southerly reaches of the habitat of the Coachella Valley fringe-toed lizard. A significant problem occurs here, however, in that even though the habitat is now viable, according to sand transport experts, all of the habitat south of Interstate 10 is wind-shadowed. This means that the sand needed to keep the habitat viable had been blocked from down wind movement by structures placed in the path of the wind. This wind shadowing effect renders the habitat useless to Coachella Valley fringe-toed lizards. It would not be wise to establish preserves that will be non-viable in the near future.

A third alternative would be to enforce the ESA's prohibitions on taking with no exception. That would allow no development in the Coachella Valley where the fringe-toed lizard now exists. Because this alternative would preclude

any development on the majority of land within the Coachella Valley, there would be a large negative economic impact on the local community. Also, habitat would be protected that is already wind-shadowed and decreasing in value to the fringe-toed lizard as the blow sand is depleted and stabilized. In the efforts to establish a program that allows for the long-term survival of the fringe-toed lizard, it makes little sense to protect habitat that will be of little or no value to the species within a few years.

A fourth alternative is to take no action. This alternative would continue the present situation. Depending on the effectiveness of enforcement efforts, this alternative could lead to the almost certain extinction of the Coachella Valley fringe-toed lizard. None of the habitat would be directly protected and at the present rate of conversion there would soon be no wind blown sand habitat for the fringe-toed lizard.

**Scoping process.** As stated above, the Service is requesting information and comments and holding an open meeting in order to determine the scope of issues to be addressed in the EIS and to identify which issues are significant and required in-depth analysis and which issues are either not significant or have been adequately covered by prior environmental review. The scoping process will also serve to allocate assignments concerning preparation of the EIS, avoid duplication of effort, and integrate preparation of the EIS into the Service's decision making process.

In addition, the Service is hopeful that the information and discussion generated by the scoping process will promote consensus concerning proper management of the Coachella Valley fringe-toed lizard.

To facilitate identification of issues during the scoping process, interested persons may find review and consideration of the following questions to be useful:

- (1) Are there other alternatives to establishing preserves for the conservation of the fringe-toed lizard?
- (2) Should the Coachella Valley fringe-toed lizard be removed from the Federal list of threatened and endangered species if the preserves are established?
- (3) Who should manage the Coachella Valley Preserve if it becomes established?
- (4) What type of public use should be allowed on the Coachella Valley Preserve if it becomes established that would be compatible with the conservation of the fringe-toed lizard?
- (5) What design for flood control projects would be most compatible for

the configuration of the Coachella Valley preserve?

The Service anticipates beginning the preparation of a draft EIS in November of 1984. As stated by the Council on Environmental Quality, "[s]ince the key purpose of scoping is to identify the issues and alternatives for consideration, the scoping process should end once the issues and alternatives to be addressed in the EIS have been clearly identified. Normally, this would occur during the final stages of preparing the draft EIS and before it is officially circulated for public and agency review." 48 FR 34264 (July 28, 1983).

The Service looks forward to working with all interested parties in the preparation of the EIS.

Dated: September 28, 1984.

F. Eugene Hester,  
Acting Director, Fish and Wildlife Service.

[FR Doc. 84-28565 Filed 10-5-84; 8:45 am]

BILLING CODE 4310-55-M

## Minerals Management Service

### Development Operations Coordination Document; Sonat Exploration Co.

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

**SUMMARY:** Notice is hereby given that Sonat Exploration Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 4099, Block 31, East Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

**DATE:** The subject DOCD was deemed submitted on September 28, 1984. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

**ADDRESSES:** A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the

Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70805.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0875.

**SUPPLEMENTARY INFORMATION:** The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: September 28, 1984.

John L. Rankin,  
Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 84-26597 Filed 10-5-84; 6:45 am]

BILLING CODE 4310-MR-M

**National Park Service**

**National Register of Historic Places;  
Notification of Pending Nominations**

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 28, 1984. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written

comments should be submitted by October 24, 1984.

Carol D. Shull,  
Chief of Registration, National Register.

**DELAWARE**

**Kent County**

Dover vicinity, *Mifflin-Marim Agricultural Complex*, DE 9  
Little Creek, *Little Creek Hundred Rural Historic District*, DE 9

**New Castle County**

New Castle, *New Castle Historic District*, Roughly bounded by the Delaware River, Broad Dike, 4th, 6th, 7th, and Penn Sts.  
St. Georges, *St. Georges Presbyterian Church*, Main St.

**FLORIDA**

**Sarasota County**

Sarasota, *Reagin, L.D., House (Sarasota MRA)*, 1213 N. Palm Ave.

**LOUISIANA**

**Vermilion Parish**

Abbeville vicinity, *A La Bonne Veillee*, NE of Abbeville

**Vernon Parish**

Leesville, *Kansas City Southern Depot*, Louisiana Ave. and 3rd St.

**MARYLAND**

**Baltimore (Independent City)**

*Gandy Belting Company Building*, 729-731 W. Pratt St.

**MICHIGAN**

**Wayne County**

Detroit, *Palms, Francis, Building and State Theater*, 2111 Woodward Ave.

**MISSOURI**

**Cole County**

Jefferson City, *Villa Panorama*, 3310 Swifts Hwy.

**St. Louis County**

Oakville vicinity, *Koch, Robert, Hospital*, 4101 Koch Rd.  
Webster Groves, *Corlock Buildings*, 101-113 W. Lockwood Ave.

**NEW YORK**

**Queens County**

Belle Harbor vicinity, *Riis, Jacob, Park Historic District (Boundary Increase)*, Beach Channel Dr.

**NORTH CAROLINA**

**Alamance County**

Burlington, *West Davis Street-Fountain Place Historic District*, Roughly bounded by Front, W. Webb, S.  
Fisher, E. Willowbrook, W. Davis, and Fountain Pl.

**Beaufort County**

Pantego, *Pantego Academy*, Academy St.

**Burke County**

Valdese, *Valdese Elementary School*, 400 Main St.  
Valdese, *Waldensian Presbyterian Church*, 104 E. Main St.

**Chatham County**

Moncure, *Lockville Dam, Canal and Powerhouse*, W of Moncure at Deep River and U.S. 1

**Guilford County**

Colfax vicinity, *Endsley-Morgan House*, Off U.S. 421

**Wako County**

Forestville, *Forestville Baptist Church*, U.S. 1-A

**NORTHERN MARIANA ISLANDS**

**Managaha Island**

Saipan vicinity, *Managaha Island Historic District*, W of Saipan

**Rota Island**

Songsong vicinity, *Dugi Archeological District*, E of Songsong

Songsong vicinity, *Japanese Coastal Defense Gun*, SE of Songsong

**Saipan Island**

Chalan Kanoa vicinity, *Unai Obyan Latte Site*, SE of Chalan Kanoa  
Garapan vicinity, *Sabanetan Toro Latte Site*, NE of Garapan  
Garapan, *Campaneyan Kristo Rai*, Beach Rd.

**Tinian Island**

San Jose vicinity, *North Field Historic District*, N of San Jose

**OKLAHOMA**

**Cleveland County**

Moore, *Moore Public School Building*, NW First and Broadway

**Tillman County**

Frederick, *Ramona Theatre*, 114 S. 9th St.

**OREGON**

**Clatsop County**

Astoria, *Griffin, John N., House*, 1643 Grand Ave.  
Astoria, *Holmes, Gustavus, House*, 692 34th St.  
Astoria, *Staples, Norris, House*, 1031 14th St.

**Columbia County**

St. Helens, *St. Helens Downtown Historic District*, Roughly Strand, 1st, 2nd, 3rd, 4th, Cowlitz, St.  
Helens Sts., and Columbia Blvd.

**Douglas County**

Roseburg vicinity, *Miller's Mountain House*, 1195 Roberts Mountain Rd.  
Sutherlin vicinity, *Stephens Community Historic District*, Fort McKay and Scott Henry Rds.

**Jackson County**

Medford, *Shone-Charley House*, 305 N. Grape St.

**Lake County**

Lakeview, *Bailey and Massingill General Store*, 4 N. E St.

**TENNESSEE****Rutherford County**

Murfreesboro vicinity, *Boxwood*, Old Salem Pike

**Sullivan County**

Kingsport, *Grass Dale*, 774 Bloomingdale Pike

**WYOMING****Johnson County**

Buffalo vicinity, *HF Bar Ranch Historic District*, NW of Buffalo

**Laramie County**

Cheyenne, *Masonic Temple*, 1820 Capitol Ave.

Cheyenne, *Rainsford Historic District*, Roughly bounded by Morrie, 22nd, Warren, and 17th Sts.

**Lincoln County**

Kemmerer, *Lincoln County Courthouse*, Sage and Garnet Sts.

[FR Doc. 84-26820 Filed 10-5-84; 8:45 am]

BILLING CODE 4310-70-M

**INTERNATIONAL TRADE COMMISSION**

[Investigations Nos. 731-TA-169, 171, 175, 177, 178, 180, and 182(Final)]

**Certain Carbon Steel Products From Argentina, Australia, Finland, and Spain; Rescheduling of Hearing**

**AGENCY:** International Trade Commission.

**ACTION:** Rescheduling of the hearing to be held in connection with the subject investigations.

**SUMMARY:** The Commission hereby announces the rescheduling of the hearing to be held in connection with the subject investigations from 10:00 a.m. on October 9, 1984, to 10:00 a.m. on December 13, 1984.

**EFFECTIVE DATE:** October 2, 1984.

**FOR FURTHER INFORMATION CONTACT:** Bonnie Noreen (202-523-1369), Office of Investigations, U.S. International Trade Commission.

**SUPPLEMENTARY INFORMATION:****Background**

On July 25, 1984, the Commission instituted the subject antidumping investigations and scheduled a hearing to be held in connection with them for October 9, 1984 (49 FR 33348, Aug. 22, 1984). Subsequently, the Department of Commerce extended the date for its final determinations in the investigations from October 3, 1984, to December 7, 1984. The Commission,

therefore, is revising its schedule in the investigations to conform with Commerce's new schedule. Pursuant to section 735(b)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1673(b)(2)(B)), the Commission must make its final determinations within 45 days of Commerce's final determinations, or in this case by January 21, 1985.

**Staff report**

A public version of the staff report containing preliminary-findings of fact in these investigations was placed in the public record on September 20, 1984, pursuant to § 207.21 of the Commission's rules (19 CFR § 207.21).

**Hearing**

The Commission will hold a hearing in connection with these investigations beginning at 10:00 a.m. on December 13, 1984, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC 20436. Requests to appear at the hearing were to be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on September 27, 1984. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on December 7, 1984, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is December 10, 1984.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR § 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on December 18, 1984.

**Written Submissions**

As mentioned, parties to these investigations may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before December 18, 1984. A signed original and fourteen (14) true copies of each submission must be filed with the

Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

**Authority:** This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: October 3, 1984.

Kenneth R. Mason,  
*Secretary.*

[FR Doc. 84-26813 Filed 10-5-84; 8:45 am]

BILLING CODE 7020-02-M

**INTERSTATE COMMERCE COMMISSION****Forms Under Review by Office of Management and Budget**

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Lee Campbell (202) 275-7238. Comments regarding this information collection should be addressed to Lee Campbell, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503, (202) 395-7340.

**Type of Clearance:** Extension  
**Bureau/Office:** Office of Proceedings  
**Title of Form:** Application for motor or water carrier certificate or permit, brokerage license, freightforwarder permit or water carrier exemption

OMB Form No.: 3120-0047  
Agency Form No.: OP-1  
Frequency: When authority is requested  
Respondents: Persons desiring operating authority

No. of Respondents: 16,000  
Total Burden Hrs.: 128,000

James H. Bayne,  
Secretary.

[FR Doc. 84-26572 Filed 10-5-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-18 (Sub-61X)]

### Rail Carriers; the Chesapeake and Ohio Railway Co.; Abandonment Exemption; Notice of Exemption

The Chesapeake and Ohio Railway Company (C&O) filed a notice of exemption under 49 C.F.R. 1152 Subpart F—*Exempt Abandonments*, as amended in Ex Parte No. 274 (Sub-No. 8A), *Exemption of Out of Service Lines (Discontinuance of Service and Trackage Rights)*, — I.C.C. — (1984). C&O intends to abandon its line of railroad, known as the Brewster Spur, between milepost 0.00 and milepost 0.82 at the end of the line, a distance of 0.82 mile in Saginaw County, MI.

C&O has certified (1) that no local traffic has moved over the line for at least 2 years and that no overhead traffic moves over the line, and (2) that no formal complaint, filed by a user of rail service on the line, or by a state or local governmental entity acting on behalf of such user, regarding cessation of service over the line, either is pending with the Commission or has been decided in favor of a complainant within the 2-year period preceding this notice. The Public Service Commission (or equivalent agency) in Michigan has been notified in writing at least 10 days prior to the filing of this notice. See *Exemption of Out of Service Rail Lines*, 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employee affected by the abandonment will be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 366 I.C.C. 91 (1979).

The exemption will be effective on November 8, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by October 19, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by October 29, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission must be sent to C&O's representatives:

René J. Gunning, Suite 2204, 100 North Charles Street, Baltimore MD 21201  
Peter J. Shultz, P.O. Box 6419, Cleveland, OH 44101.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: October 1, 1984.

By the Commission, Heber P. Hardy,  
Director, Office of Proceedings.

James H. Bayne,  
Secretary.

[FR Doc. 84-26573 Filed 10-5-84; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF JUSTICE

### National Institute of Justice

#### Solicitation of Proposals for Studying the Immediate and Long-Term Psychological Effects of Criminal Victimization

The National Institute of Justice announces a competitive research grant program on studying the immediate and long-term psychological effects of criminal victimization. A total of up to \$450,000 will be provided for 2-4 grants awards in amounts of \$100,000 to \$250,000 for 12-24 months of research activity. To be eligible for consideration, proposals must be received by January 15, 1985 at the National Institute of Justice.

The purpose of this research is to develop understanding about the psychological wounds sustained by victims of crime and the best means of treating such injuries. Its goal is to improve the knowledge and practice of the mental health professions, the criminal justice system, and all others whose procedures and performance affect the psychological well-being and successful recovery of the victims of crime. Special attention should be given to the use of research designs that will provide results and findings that will influence policy and practice. Funding for the operation of programs will not receive consideration under this announcement, however.

A copy of the solicitation may be obtained by sending a self-addressed *mailing label* to: Announcement Request—"Studying the Immediate and Long-Term Psychological Effects of Criminal Victimization", National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850.

Dated: September 25, 1984.

James K. Stewart,  
Director, National Institute of Justice.

[FR Doc. 84-26546 Filed 10-5-84; 8:45 am]

BILLING CODE 4410-18-M

## LIBRARY OF CONGRESS

### American Folklife Center Board of Trustees; Meeting

In accordance with Pub. L. 94-463, the Board of Trustees of the American Folklife Center announces its meeting to be held in Washington, D.C. on Friday, November 2, from 9:30 a.m. to 4:30 p.m. in the Whittall Pavilion of the Library of Congress. The meeting will be open to the public. It is suggested that persons planning to attend this meeting as observers contact Eleanor Sreb, American Folklife Center (202) 287-6590.

The American Folklife Center was created by the U.S. Congress with passage of Pub. L. 94-201, the American Folklife Preservation Act, in 1976. The Center is directed to "preserve and present American folklife" through programs of research, documentation, archival preservation, live presentation, exhibition, publications, dissemination, training, and other activities involving the many folk cultural traditions of the United States. The Center is under the general guidance of a Board of Trustees composed of members from Federal agencies and private life widely recognized for their interest in American folk traditions and arts.

The Center is structured with a small core group of versatile professionals who both carry out programs themselves and oversee projects done by contract by others. In the brief period of the Center's operation it has begun energetically to carry out its mandate with programs that provide coordination, assistance, and model projects for the field of American folklife.

Raymond L. Dockstader,  
Deputy Director, American Folklife Center.

[FR Doc. 84-26543 Filed 10-5-84; 8:45 am]

BILLING CODE 1410-01-M

## NATIONAL SCIENCE FOUNDATION

### Advisory Panel for Cell Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting.

Name: Advisory Panel for Cell Biology.

Date and Time: Wednesday, Thursday and Friday, October 24, 25, and 26, 1984 from 9:00 a.m. to 5:00 p.m.

Place: Room 338, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. Antonio H. Romano, Program Director, Cell Biology Program, Room 332-G, Telephone: 202-357-7474.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research in Cell Biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: October 3, 1984.

M.R. Winkler,

Committee Management Officer.

[FR Doc. 84-26616 Filed 10-5-84; 8:45 am]

BILLING CODE 7555-01-M

#### Advisory Panel for Psychobiology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Psychobiology.

Date and Time: October 24-26, 1984, 9:00 a.m.-5:00 p.m. each day.

Place: National Science Foundation, 1800 G Street, NW., Room 642, Washington, D.C.

Type of Meeting: Closed.

Contact Person: Dr. Fred Stollnitz, Program Director, Psychobiology Program, Room 320, National Science Foundation, Washington, D.C. 20050, Telephone (202) 357-7949.

Purpose of Panel: To provide advice and recommendations concerning support for research in psychobiology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee

Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: October 3, 1984.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 84-26617 Filed 10-5-84; 8:45 am]

BILLING CODE 7555-01-M

#### DOE/NSF Nuclear Science Advisory Committee; Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: DOE/NSF Nuclear Science Advisory Committee.

Date, Time, and Place: October 24, 1984, 10:00 a.m.-6:00 p.m. October 25, 1984; 9:00 a.m.-5:00 p.m. Department of Energy, Forrestal Building—Room 1E-245, 1000 Independence Avenue, Washington, D.C. 20545.

Type of Meeting: Open.

Contact Person: Dr. Harvey B. Willard, Head, Nuclear Science Section, National Science Foundation, Washington, D.C. 20550, 202/357-7993.

Summary Minutes: May be obtained from Mrs. Shirley Goulart, National Science Foundation, Physics Division, Room 341, Washington, D.C. 20550.

Purpose of Committee: To provide advice on a continuing basis to both DOE and NSF on the management of and long range planning for basic nuclear science in the United States.

Agenda: Status report on the 4 GeV continuous beam electron accelerator facility (CEBAF). Review of December 1983 Long Range Plan for Nuclear Science to maintain the up-to-date status of the Plan in view of scientific developments over the last year. Other business.

Dated: October 3, 1984.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 84-26619 Filed 10-5-84; 8:45 am]

BILLING CODE 7555-01-M

#### NATIONAL TRANSPORTATION SAFETY BOARD

##### Availability of Reports, Recommendations, and Responses

##### Reports Issued

**Highway Accident Report**—Trailways Lines, Inc., Bus/E.A. Holder, Inc., Truck, Rear End Collision and Bus Run-Off-Bridge, U.S. Route 59., near Livingston, Texas, November 30, 1983 (NTSB/HAR-84/04) (NTIS Order No. PB84-916204).

**Highway Accident Report**—Collapse of a Suspended Span of Interstate Route 95 Highway Bridge Over the Mianus

River, Greenwich, Connecticut, June 20, 1983 (NTSB/HAR-84/03) (NTIS Order No. PB84-916203).

Note.—Reports may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, for a fee covering the cost of printing, mailing, handling, and maintenance. For information on reports call 703-487-4650, and to order subscriptions to reports call 703-487-4630.

##### Recommendations Issued

**Aviation—Federal Aviation Administration: Aug. 31: A-84-103:** Issue an Operations Bulletin for all air carrier operations inspectors to make fuel awareness on the part of flightcrews, including fuel consumption planning and full familiarity with the functioning of the fuel system and its instruments, a subject of special attention during performance of the inspectors' flight check and surveillance duties.

Note.—Single copies of these recommendation letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include recommendation number in your request. Copies of recent recommendations are free of charge while supplies last. Recommendations that must be photocopied will be billed at a cost of 14 cents per page (\$1 minimum charge).

##### Responses From

**Aviation—Federal Aviation Administration: Aug 27: A-84-53:** Issued General Notice N8320.29B directing that principal avionics inspectors request their assigned operators of DC-10 series aircraft accomplish a DC-10 series fleet inspection campaign to verify proper condition, security, and routing of the wire bundle at both the captain's and first officer's positions. On May 30, 1984, McDonnell Douglas Corporation issued an All Operators Letter 10-1759 to all DC-10 operators suggesting that operators verify glareshield harness routing and integrity on both the left-hand and right-hand sides and restore them to proper configuration should they be misrouted and/or chafed. **A-84-54:** An Airworthiness Directive effective August 20, 1984, applies to McDonnell Douglas DC-10 and KC-10A (military) airplane certificated in all categories, and requires a visual inspection of wiring bundles beneath the cockpit glareshield to ensure that they are not chafed and are routed properly over the fluorescent light shroud.

**Eastern Air Lines, Inc.: Aug 22: A-84-42 through -44:** Eastern's Flight Operations and Inflight departments have made several changes in their training programs. These changes embrace the objective of standardized

procedures. Has published a new Flight Attendant Emergency Procedures Manual. It is impractical to train flight attendants and pilots together. There is a coordinated effort by our pilot and flight attendant training groups to maintain a commonality of procedures and instructions where practical.

**Highway—Federal Highway Administration: Apr. 5: H-80-50 and -51:** The research study "Limited Sight Distance Warning for Vertical Curves" is nearing completion. Has proposed a change to the Manual on Uniform Traffic Control Devices Section 2C-39 Limited Sight Distance Sign (W14-4) to delete/modify the "Limited Sight Distance" sign for use only where accident history shows sight distance accidents or where substantial hazards are posed relating to sight distance.

**National Tank Truck Carriers, Inc.: Feb. 28: H-83-34:** Agrees that several steps could be taken to improve the truck driver selection and screening process. Urges the Safety Board and the U.S. Department of Transportation to recognize the fact that drivers of commercial vehicles should be subject to more strenuous testing than DOT now requires. It must also work to either make all States cooperate on licensing and driving history background checks or adopt a national truck driver's license for commercial vehicle operators.

**International Manufacturing Co.: Mar. 21: H-83-60 and -61:** Plans further revisions to its child restraint systems in light of the Board's study and recommendations.

**Arizona Department of Transportation: Mar. 23: H-83-46:** Has added seven new standards to the Pupil Transportation Program. Rule R17-4-505 of the minimum standards for school buses, school bus drivers, and school bus inspection standards addresses the quality of school bus inspection and repair. **H-83-47:** Section B of the minimum standards for school bus operation (R17-4-507) requires the driver to perform a planned and systematic daily pre-trip inspection of the school bus as defined and outlined in R17-4-505.C.2. **H-83-48:** Has decided not to require two fire extinguishers on school buses, based on experience with theft. If necessary, signs indicating placement of the fire extinguisher can be posted. Passengers are briefed on the location and use of emergency equipment during the required bi-annual school bus evacuation drills.

**State of Maryland: Mar. 20: H-83-46:** School bus inspectors must have the skills of an automotive mechanic with two years on-the-job experience. Applicants are carefully screened. Training is on-the-job. Maryland Rules

and Regulations allow the County Supervisors of Transportation to establish and maintain a system of school bus procurement, maintenance, and inspection commensurate with State laws and Motor Vehicle Administration regulations. **H-83-47:** Maryland law requires the suspension of registration and the physical removal of registration plates of any school bus deemed to be in an unsafe condition. Maryland would require legislative action in order to identify and attempt to control vehicles used by activity groups, which do not qualify as school buses, are not painted school bus yellow, and are not registered as school buses. **H-83-48:** Teaches immediate and rapid evacuation of a school bus in case of fire. Drivers and attendants are instructed in firefighting with an extinguisher.

**State of Mississippi: Apr. 30: H-84-22:** Sobriety check points are conducted through the State Department of Public Safety periodically as a part of our comprehensive Alcohol Countermeasures Program. **H-84-23:** Local law enforcement agencies have been conducting sobriety check points periodically and are encouraged to continue to do so. **H-84-24:** All aspects of our comprehensive Alcohol Countermeasure Programs are evaluated annually as to their effectiveness.

**State of Tennessee Department of Education: Apr. 25: H-83-41:** School bus drivers are required to wear seat belts. Has intensified its efforts to change driving habits and attitudes of drivers. **H-83-46:** Department of Education is no longer responsible for school bus inspectors and driver training. Its staff is in constant touch with school officials relative to shop layouts, repair schedules, maintenance procedures, parts purchase, specification development, etc. **H-83-48:** Does not agree that two extinguishers are needed on school buses.

**State of Texas: Apr. 26: H-83-46 through -48:** Has instructed legislative staff to review current State statutes to identify provisions that can be strengthened in line with recommendations concerning school bus inspection and repair, school activity groups riding in mechanically unsafe vehicles, and fire extinguishers on school buses.

**State of Virginia: Apr. 26: H-84-15 through -18:** The recommendations regarding sobriety check points will be very helpful as the Governor has been responsible for legislation to curb drunk driving.

**Oklahoma Highway Safety Office: Aug. 23: H-83-52:** Held seven workshops across the State in 1983 and met with

numerous volunteer groups as part of a statewide child passenger safety program. Has in operation about 45 loaner seat programs.

**Trailways, Inc.: Aug. 17: H-84-61 through -63:** Monitors speed compliance by its drivers by performing both on-highway and in-vehicle performance checks. On-board check activity includes seat belt usage and appropriate follow-up with drivers for noncompliance. Monitors new technology in driver alert devices that may have a positive impact on safety performance.

**Intermodal—Research and Special Programs Administration: Jul. 6: I-83-2:** Issued an Advance Notice of Proposed Rulemaking on March 16, 1984, addressing the Required Use of Emergency Response Guidebooks and Materials Safety Data Sheets. Also held a public hearing on May 2, 1984.

**Marine—Federal Communications Commission: Mar. 7: M-84-12:** Will perform a "wet test" of all Emergency Position Indicating Radio Beacons during annual vessel inspection to determine that these devices operate properly.

**Department of the Army: Apr. 9: M-83-96 and -97:** Is requesting comments on the recommendations concerning navigation guides and profile drawings of bridges on navigation charts from its field offices.

**Poling Transportation Corporation: Apr. 6: M-83-42:** Is preparing a new operations manual. Place aboard all tank vessels in 1980 an Oil Transfer Procedure Manual which contains a copy of all Parts 155 of Title 33 of the Code of Federal Regulations.

**State of New Jersey: Mar. 20: M-83-76 and -77:** the New Jersey State Police, Marine Law Enforcement Bureau has trained all Marine Police Officers in the identification and apprehension of the intoxicated boat operator. Legislation is pending which would amend the State laws concerning the operation of power vessels by persons under the influence of intoxicating liquor or drugs.

**Pipeline—Washington Gas Light Company: Aug. 23: P-83-8 and -9:** Has requested all operating department heads to review their training programs to insure that they emphasize employee and public safety and that employees are directed to adhere to established gas company safety procedures.

**Railroad—Association of American Railroads: Aug. 22: R-83-7:** The study of performance standards for evaluating the significance of rail fatigue defects is continuing. **R-83-8:** Asked chief operating officers of its member railroads to again evaluate their



procedures in documenting hazardous materials carried on freight trains and emergency response information for those commodities. *R-83-9*: Has adopted documentation requirements for acceptance of TOFC/COFC shipments and issued a circular with this information.

*Houston Belt & Terminal Railway Company: Aug. 6: R-83-60 and -61*: Will establish supervisory procedures at crew-change terminals to insure that all operating department employees coming on duty at any hour of the day are physically fit and capable of complying with all pertinent operating rules. Will enhance the training of all operating employees in their responsibilities and duties.

*Federal Railroad Administration: Apr. 30: R-72-11*: Because of changes in the railroad operating environment, there is no need to promulgate regulations to cover the operation of catenary and third rail electric power supply system when power is interrupted unintentionally or when circuit breakers are actuated by an unknown cause. *R-72-14 and R-78-42*: Is concentrating on educational programs rather than fencing. A selected fencing program along the Northeast Corridor is still in progress. *R-74-26*: Has determined the risks of train accidents involving misaligned switches where automatic block signal systems do not exist to be exceptionally low. Issued on January 26, 1984, revised regulations covering signal and train control systems which adopt the Board's recommendation that regulations be promulgated to replace Interstate Commerce Commission Order 29543. *R-75-29*: Since existing regulations in 49 CFR, Subpart D, addresses the proper handling of hazardous materials and the added safety protection devices have been or will be installed on tank cars to prevent the release of materials in an impact situation, FRA requests that recommendation to develop minimum performance standards for retarding systems in gravity switching yards be closed. *R-73-8, R-75-36, R-76-3*: FRA has (1) Established rules governing blue signal protection, protection of trains, and radio standards; (2) promulgated regulations that establish uniform operating rules and require that employees receive operating rule training; and (3) been conducting thorough system assessments on railroads that show a poor or deteriorating safety record. Believes that these programs attack the root cause (human error) of the problem these recommendations address. The number of accidents where an incapacitated

engineer is involved are so very small that a requirement to install an expensive hardware system on the entire locomotive fleet is not required or necessary. *R-76-13*: The Congress, the Federal Highway Administration, and the FRA have developed a program to evaluate and address problems with the most serious rail/highway grade crossings on a State-by-State basis. *R-76-14*: The Federal Highway Administration and the FRA have developed a comprehensive cost-effective approach to the planning and implementation of a program to attack the rail/highway grade crossing problem. *R-76-50 and R-79-61*: Has promulgated regulations that require railroads to file their operating rules with the FRA. These operating rules all contain a rule 34 requiring the communication of signal indications. *R-78-23*: A new rule in Section 236.60 of the revised Signal and Train Control regulations will accomplish the phase-out of the contact closure circuit controls on an attrition basis. *R-78-41*: All General Railway Signal Company cab signal equipment being operated has been modified to preclude the recurrence of failure. *R-76-8, R-79-73, R-81-81*: Since most railroads are already using radios, a Federal requirement that they do so is unnecessary. A requirement that all locomotives be equipped with an operable and compatible radio system with all other railroads would be extremely costly and cannot be justified on the basis of safety benefits exceeding costs. *R-80-36*: Has concluded that a requirement to install a mechanism which can be incorporated in the automatic block system to indicate when bridges are displaced is not feasible. *R-80-54*: Headlights are being used as marking devices on trains in passenger service in only Boston and Philadelphia. The cars in Boston are being retrofitted to eliminate their use and FRA will check with the Southeastern Pennsylvania Transportation Authority on the status of their cars. *R-81-39 and -40*: The Department of Transportation's Transportation Systems Center study titled "Freight Car Reflectorization" provided considerable evidence that reflectorization would be costly to install and maintain and that it would have little or no effect on preventing rail/highway grade crossing accidents. *R-73-8*: The number of accidents where an incapacitated engineer is involved are so very small that a requirement to install an expensive hardware system on the entire locomotive fleet is not required or necessary. *R-76-54*: Is

participating in a joint, three-year, Industry/Government Wheel Safety Research Program concerning a method that does not depend on crew observation that will automatically detect when a wheel has failed or derailed. *R-76-55*: The current high-temperature mandatory wheel removal requirements of 49 CFR 215.103(h) will be evaluated and guidelines for the establishment of newer criteria will be produced under a contract with the Association of American Railroads for research on railroad wheels subject to hostile high-temperature operating conditions. *R-77-1*: The FRA tested the Amtrak SDP-40F locomotive in response to the recommendation to determine the causes for the widening of the track gage. Amtrak has decided to convert 6-axle SDP-40F locomotives to 4-axle F40PH locomotives. *R-77-5*: Requires under 49 CFR Part 217 that engineers be given training on the railroad's operating practices. Is participating in a joint Industry/Government Employee Training Safety Program to improve safety training curriculum and aids. Funded the development of a Locomotive Evaluator for use in engineer training. *R-78-17*: The Illinois Central Gulf Railroad has issued revised operating procedures and modified the slack adjusting system on the Highliner cars to make it compatible with the safe operation of the snow brake system. *R-78-18*: FRA and the AAR tested composition and cast-iron brake shoes in December 1983 and issued report R-565A on braking effectiveness. *R-78-35*: Since the FRA has developed a National Inspection Plan that focuses attention on accident rates and cause, the AAR has developed a comprehensive early warning system used to alert the railroads to any potential component failure. *R-78-44*: Does not intend to issue regulations requiring the installation of event recorders on locomotives. *R-78-48*: Believes that 49 CFR 231.6(c) regarding the location of side handholds on flat cars is adequate. *R-79-82 and R-81-94*: A safety review indicates that the Union Pacific Railroad has taken appropriate measures to comply with the Federal Power Brake Regulations. *R-79-84*: An evaluation of the training and testing programs of the Union Pacific revealed that the supervisors can adequately enforce the rules to provide safe and efficient operations. *R-79-85*: Has initiated a brakepipe flow indicator study. *R-81-95*: Changes to the Federal Power Brake Regulations (49 CFR Part 232) in 1982 are consistent with the recommendation to retain the minimal requirements for the inspection and

testing of trains at the points where they are originated. *R-71-47*: Worked with the Seaboard System Railroad and the Brotherhood of Locomotive Engineers on the development of a model training program, which is described in a report titled, "A Demonstration Project for Locomotive Engineer Training." *R-79-20*: Has evaluated the Automated Track Inspection Program and has established goals and objectives for the program. *R-79-22*: A national rerouting policy for hazardous materials would lead to a large misallocation of resources in the rail industry, according to studies made by the Transportation Systems Center. *R-80-11*: New DOT specification 105 tank cars were required to have head and thermal protection under HM-174. On April 14, 1983, DOT issued a Notice of Proposed Rulemaking which requires the retrofit of all 105 tank cars used to carry specific commodities by December 31, 1986.

Note.—Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include the respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 14 cents per page (\$1 minimum charge).

H. Ray Smith, Jr.,  
Federal Register Liaison Officer.

[FR Doc. 84-28614 Filed 10-5-84; 8:45 am]

BILLING CODE 7533-01-M

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards Combined Subcommittees on Reliability and Probabilistic Assessment and Limerick Generating Station Units 1 and 2; Meeting

The ACRS Subcommittees on Reliability and Probabilistic Assessment and Limerick Generating Station Units 1 and 2 will hold a combined meeting on October 20, 1984, at the Holiday Inn-Airport, 9901 La Cienega Blvd., Los Angeles, CA.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

*Saturday, October 20, 1984—8:30 a.m. until the conclusion of business*

The Subcommittee will continue the review of the probabilistic risk assessment for the Limerick plant and the Philadelphia Electric Company's application for a license to operate the Limerick Generating Station.

Oral statements may be presented by members of the public with concurrence

of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Philadelphia Electric Company, NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Dr. Richard Savio (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EDT. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: October 3, 1984.

Morton W. Libarkin,  
Assistant Executive Director for Project Review.

[FR Doc. 84-28651 Filed 10-5-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-213]

### Connecticut Yankee Atomic Power Co. (Haddam Neck Plant); Exemption

#### I

Connecticut Yankee Atomic Power Company (the licensee) is the holder of Facility Operating License No. DPR-61 which authorizes the operation of the Haddam Neck Plant (the facility) at the steady-state power levels not in excess of 1825 megawatts thermal. The facility is a pressurized water reactor (PWR) located at the licensee's site in Middlesex County, Connecticut. The license provides, among other things, that it is subject to all rules, regulations and Orders of the Nuclear Regulatory

Commission (the Commission) now or hereafter in effect.

#### II

10 CFR 50.46(a)(1) requires that each boiling and pressurized light-water nuclear power reactor fueled with uranium oxide pellets within cylindrical Zircaloy cladding shall be provided with an emergency core cooling system (ECCS) which shall be designed such that its calculated cooling performance following postulated loss-of-coolant accidents conforms to the criteria set forth in 10 CFR 50.46(b). ECCS cooling performance shall be calculated in accordance with an acceptable evaluation model, and shall be calculated for a number of postulated loss-of-coolant accidents of different sizes, locations, and other properties sufficient to provide assurance that the entire spectrum of postulated loss-of-coolant accidents is covered. Appendix K, ECCS Evaluation Models, sets forth certain required and acceptable features of evaluation models.

By letter dated August 31, 1984, the licensee requested an exemption pursuant to 10 CFR 50.12(a), from the requirements of 10 CFR 50.46 and Appendix K as they apply to the installation of four Zircaloy clad lead test assemblies in the core. The licensee has historically used fuel with stainless steel cladding, although Zircaloy clad test assemblies were utilized during the period from 1970 to 1973 prior to the issuance of Appendix K. Two assemblies were used in Cycle 2 and four assemblies were used in Cycles 3 and 4. Because of the use of stainless steel cladding, the licensee was only required to demonstrate the ECCS performance capability in accordance with the AEC Interim Policy Statement for Emergency Core Cooling Systems (36 FR 12247).

Connecticut Yankee Atomic Power Company has been evaluating the potential to convert to a zirconium clad core in order to reduce the enrichment of uranium required for a fuel cycle. In order to further evaluate the implications of zirconium conversion, the licensee intends to install four (4) Zircaloy-4 clad lead test assemblies during the upcoming Cycle 13 reload. Barring unforeseen circumstances, the licensee plans to keep the test assemblies in the Haddam Neck core for three cycles, which is the usual residence time for a fuel assembly.

The licensee's present Technical Specifications permit up to four Zircaloy-4 clad fuel bundles with a mass of up to 350 kg Zircaloy to be inserted into the core. In a letter dated

May 25, 1984, Connecticut Yankee Atomic Power Company requested a change to the Technical Specifications that would increase the allowed mass of Zircaloy to 400 kg. The 350 kg of Zircaloy-4 was the mass corresponding to four assemblies which were used earlier in plant life. The presently proposed bundles would have approximately 380 kg of Zircaloy-4 for the four bundles due to a new fuel design with a slightly thicker clad. The for Zircaloy assemblies are to be demonstration assemblies in a core of 157 total assemblies. The stainless steel clad of the other fuel assemblies had a mass of approximately 18,000 kg. The core remains essentially a completely stainless steel core (153 assemblies out of 157).

The present Technical Specifications permitted up to 350 kg of Zircaloy on the basis of an approved model demonstrating that the ECCS would satisfy the Interim Acceptance Criteria (IAC). The licensee's model has been reviewed as new safety issues have arisen to ensure that compliance with the IAC is maintained. The ECCS performance evaluation for the Cycle 13 LOCA, based on the previously performed and approved calculations in fulfillment of the IAC has demonstrated that significant margin exists. In addition, the licensee has demonstrated that the four Zircaloy assemblies will be placed in non-limiting locations on the periphery of the core where the lead test assemblies will experience a radial-peaking factor some 46% less than the hottest stainless steel assembly. Furthermore, the hottest lead test assembly rod will see a radial-peaking factor approximately 26% less than that of the hottest stainless steel rod. The hottest Zircaloy rod will not exceed 11.0 kW/ft steady-state peak linear heat generation rate (PLHGR) compared to 13.85 kW/ft allowable for the hottest stainless steel rod resulting in a corresponding reduction of peak clad temperature. This relatively low power level for the Zircaloy elements assures that the chemical and mechanical differences between Zircaloy and stainless steel are not controlling.

Further, the licensee indicates that sensitivity studies and calculations based on 10 CFR Part 50 Appendix K-type assumptions indicate that the peak clad temperature of the hottest Zircaloy rod at 11.0 kW/ft would remain below 1800°F where rapid metal-water reaction could become a factor in the loss-of-coolant accident safety evaluation. Based on the above discussion the licensee states that substantial margins exist in the LOCA evaluation to

demonstrate that the lead test assemblies are much less limiting than the hottest stainless steel rod. However, a complete evaluation in accordance with 10 CFR 50.46 and Appendix K was not undertaken. The licensee has stated that in the event it decides to convert to Zircaloy clad fuel, the appropriate Appendix K model would be submitted for staff review and approval prior to its use as part of the licensing basis for the plant.

The NRC staff has reviewed the licensee's request for exemption and proposed amendment to the Technical Specifications and agrees with the licensee that the loss-of-coolant accident evaluation for Haddam Neck would not be controlled by increased metal-water reaction because the Zircaloy lead test assemblies are at locations not exceeding 11.0 kW/ft PLHGR.

The NRC staff review also indicates that there are no other transients or accidents for which the increase of 50 kg of Zircaloy-4 in the core would make any significant difference in the safety evaluation. Therefore, the staff concludes that since the four Zircaloy clad test assemblies will be placed in non-limiting locations on the periphery of the core, where the PLHGR will not exceed 11.0 kW/ft, an evaluation in accordance with Appendix K is not necessary to provide assurance that the lead test assemblies will meet the criteria of 10 CFR 50.46(b).

### III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption requested by the licensee's letter of August 31, 1984, is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. The Commission hereby grants to the licensee an exemption from the requirements of 10 CFR 50.46 and Appendix K for the installation of up to four Zircaloy clad lead test assemblies in the Haddam Neck core at locations in which the calculated steady-state PLHGR does not exceed 11 kW/ft.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the exemption will have no significant impact on the environment (October 1, 1984, 49 FR 38721).

For further details with respect to this action, see the licensee's requests dated May 25, 1984 and August 31, 1984, that are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Russell Library, 119 Broad Street, Middletown, Connecticut 06457.

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 1st day of October 1984.

For the Nuclear Regulatory Commission,  
Darrell G. Eisenhower,  
Director, Division of Licensing, Office of  
Nuclear Reactor Regulation.

[FR Doc. 84-28653 Filed 10-8-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

### Florida Power Corp., et al.; Consideration of Issuance of Amendment To Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-72, issued to Florida Power Corporation, et al. (the licensee), for operation of the Crystal River Unit No. 3 Nuclear Generating Plant located in Citrus County, Florida.

In accordance with the licensee's application dated July 25, 1984, the amendment would modify Technical Specification 3.7.8 to permit auxiliary building ventilation system (ABVS) inoperability for up to 12 hours for maintenance purposes, as well as for surveillance testing which is presently allowed.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92, by providing certain examples (48 FR 14870). One of the examples (vi) of actions involving no significant hazards considerations is a change which may result in some increase to the

probability or consequences of a previously analyzed accident, but where the results of the change are clearly within all acceptable criteria with respect to the system specified in the Standard Review Plan. Standard Review Plan Section 9.4.3 covers the ABVS and contains no criteria which are violated by this proposed change. The present provisions of the Technical Specifications require in effect that for any ABVS maintenance exceeding one hour, the reactor must be shut down. However, for accidents for which the ABVS was assumed to operate, consequences would not be significantly increased if the reactor were not shut down for up to 12 hours as proposed by this change. The probability of these accidents is not affected by this change. Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

By November 8, 1984, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave of intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the

results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to R.W. Neiser, Senior Vice President and General Counsel, Florida Power Corporation, P.O. Box 14042, St. Petersburg, Florida 33733.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)-(v) and 2.714(d).

For further details with respect to this action, see the application for

amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida.

Dated at Bethesda, Maryland, this 1st day of October 1984.

For the Nuclear Regulatory Commission.

John F. Stolz,  
Chief, Operating Reactors Branch No. 4,  
Division of Licensing.

[FR Doc. 84-26655 Filed 10-5-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-250 and 50-251]

**Florida Power and Light Co. (Turkey Point Plant, Unit Nos. 3 and 4); Exemption**

I

Florida Power and Light Company (the licensee) is the holder of Facility Operating License Nos. DPR-31 and DPR-41 which authorize the operation of the Turkey Point Plant, Unit Nos. 3 and 4 (the facilities) at steady-state power level not in excess of 2200 megawatts thermal. The facilities are pressurized water reactors (PWRs) located at the licensee's site in Dade County, Florida.

II

10 CFR 50.54(q) requires a licensee authorized to operate a nuclear power reactor to follow and maintain in effect emergency plans which meet the standards of 50.47(b) and the requirements of Appendix E to 10 CFR Part 50. Section IV.F of Appendix E requires each licensee to conduct emergency preparedness exercises at each site at least annually.

The licensee's letter of July 26, 1984, requested that an exemption be granted to the requirements of 10 CFR Part 50, Appendix E, Section IV.F, as applied to the annual exercise requirement, because the proposed scheduled exercise date would exceed the existing annual date. The last exercise at the Turkey Point Plant was on June 9, 1983 and the requested date for the 1984 exercise and subsequent annual exercises is November 7.

The licensee bases this request for exemption on a desire to shift the annual exercise to the late fall period of the year on a continuing basis. Not only would an annual exercise for the Turkey Point Plant later in the year benefit the state emergency preparedness program by providing a more even distribution of exercises, but would also avoid conflict with the summer hurricane season and the recurring demands this period entails annually.

III

A review of exercise schedules for past years shows that the Turkey Point exercise dates have consistently fallen within the prescribed limits and that there is no specific pattern showing either intentional or inadvertent exceeding of the intended annual requirement. The proposed date falls within the calendar year 1984, however, an exemption is needed to exceed the existing established date of June 9.

The 1982 exercise was held on March 14-15, 1982, while the 1983 exercise was held on June 9, 1983. Both exercises showed the licensee could effectively implement the emergency plan and implementing procedures. In addition, the corporate emergency response capability was extensively exercised during the Federal Field Emergency Exercise at St. Lucie in March 1984. The fact that the licensee and State committed extensive resources to planning, implementation, and followup activities for the Federal Field Exercise had bearing on the request to schedule the Turkey Point Exercise for the November 1984 time frame. The NRC staff has also discussed shifting the Turkey Point Exercise to the late fall period on a continual basis with the State of Florida. The State supports shifting the Turkey Point Exercise to this time frame for 1984 and on a continuing basis. The requested date does not conflict with other scheduled exercises within NRC Region II and thus, the schedule does not work any hardship on the regional staff.

The rationale provided by the licensee to justify the requested exemption is: (1) To more equitably distribute the emergency exercises for the State's benefit since the State must plan for and provide emergency support for two other nuclear power facilities, and (2) to avoid the summer hurricane season which could curtail the local counties' ability to participate.

IV

Based on the above, the staff concludes that scheduling the Turkey Point Plant emergency preparedness exercise for November 7, 1984, will not adversely affect the overall state of emergency preparedness at the Turkey Point site. In addition, the permanent shift of the annual exercises to November on a continuing basis will benefit all parties concerned and will avoid conflicts with the summer hurricane season. Therefore, the requested exemption from the scheduler requirements of 10 CFR Part 50, Appendix E, Section IV.F, for the 1984 exercise and establishing November for

the annual exercises on a continuing basis is appropriate and should be granted.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption requested by the licensee's July 26, 1984 letter is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the requested exemption which authorizes the licensee to conduct the 1984 annual Turkey Point Plant emergency exercise and related drills in November 1984 and subsequent annual exercises in November is hereby granted.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the exemption will have no significant impact on the environment (49 FR 38211).

For further details with respect to this action, see the application for exemption dated July 26, 1984, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Dated at Bethesda, Maryland this 20th day of September 1984.

For the Nuclear Regulatory Commission.  
Darrell G. Eisenhut,  
Director, Division of Licensing, Office of  
Nuclear Reactor Regulation.

[FR Doc. 84-26654 Filed 10-5-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

**GPU Nuclear Corp. and Jersey Central Power and Light Co.; Issuance of Amendment to Provisional Operating License**

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 76 to Provisional Operating Licensing No. DPR-16, issued to GPU Nuclear Corporation and Jersey Central Power and Light Company (the licensees), which revised the Technical Specifications and the license for operation of the Oyster Creek Nuclear Generating Station (the facility) located in Ocean County, New Jersey. The amendment was effective as of the date of its issuance.

The amendment authorized increased storage capacity of the spent fuel pool from 1800 fuel assemblies to 2600 fuel assemblies with average enrichments no greater than 3.01 weight percent U-235.

The application for the amendment complies with the standards and



requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Prior Hearing in connection with this action was published in the Federal Register on October 8, 1982 (47 FR 44647). No request for a hearing or petition for leave to intervene was filed following this notice.

The staff has reviewed this proposed facility modification relative to the requirements set forth in 10 CFR Part 51. Based upon the environmental assessment, the staff concluded that there are no significant radiological or non-radiological impacts associated with the proposed action and that the proposed license amendment will not have a significant effect on the quality of the human environment. Therefore, the Commission has determined, pursuant to 10 CFR 51.31, not to prepare an environmental impact statement for the proposed amendment. A Notice of Issuance of Environmental Assessment and Finding of No Significant Impact was published in the Federal Register on September 17, 1984 (49 FR 36460).

For further details with respect to the action see: (1) The application for amendment dated August 20, 1982, as supplemented September 2 and December 20, 1983, (2) Amendment No. 76 to License No. DPR-16, (3) the Commission's related Safety Evaluation dated September 17, 1984, and (4) the Environmental Assessment dated September 13, 1984. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., and at the Oyster Creek Local Public Document Room, 101 Washington Street, Toms River, New Jersey 08753. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 1st day of October, 1984.

For the Nuclear Regulatory Commission.

Walter A. Paulson,

*Acting Chief, Operating Reactors Branch No. 5, Division of Licensing.*

[FR Doc. 84-26552 Filed 10-5-84; 8:45 am]

BILLING CODE 7590-01-M

## PRESIDENT'S ADVISORY COUNCIL ON PRIVATE SECTOR INITIATIVES

### Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting sponsored by the President's Advisory Council on Private Sector Initiatives which will be held on October 18, 1984 at 8:30 a.m. at the Hyatt Regency in Dallas, Texas.

The Council was established on June 27, 1983 by Executive Order No. 12427 to advise the President with respect to the objectives and conduct of private sector initiative policies, including methods of increasing public awareness of the importance of public/private partnerships; removing barriers to development of effective social service programs which are administered by private organizations; and strengthening the professional resources of the private social services sector.

The purpose and agenda of the meeting is to discuss the Council's successful programs and outline its work for the remainder of the year.

The meeting will be open to the public. It is suggested that any member of the public who would like to file an oral or written statement or desires any further information regarding the meeting or the Council, please contact Ms. Patricia Kearney, Director of Communications of the White House Office of Private Sector Initiatives at 202/456-6676, or Executive Office Building, Room 134, Washington, D.C. 20500.

Dated: October 1, 1984.

James K. Coyne,  
*Special Assistant to the President for Private Sector Initiatives.*

[FR Doc. 84-26773 Filed 10-5-84; 12:21 am]

BILLING CODE 3195-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 23442; 70-7028]

### Columbia Gas System, Inc., et al.; Proposed Recapitalization by Subsidiary Companies

October 3, 1984.

In the Matter of the Columbia Gas System, Inc., 20 Montchanin Road, Wilmington, Delaware 19807; Columbia Gas Transmission Corp., 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314; Columbia Gas of New York, Inc., 200 Civic Center Drive, Columbus, Ohio 43215.

The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and two of its subsidiary companies, Columbia Gas Transmission

Corporation ("Columbia Transmission") and Columbia Gas of New York, Inc. ("Columbia New York"), have filed a proposal with this Commission pursuant to Sections 6, 7, 9(a), 10, and 12(c) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 42 thereunder.

The companies are seeking authorization for proposed recapitalizations by Columbia Transmission and Columbia New York pursuant to which Columbia Transmission will exchange 1,623,275 shares of its \$25 par value common stock for \$40,581,864.22 principal amount of its 6% Demand Notes the ("Notes") and Columbia New York will exchange 75,285 shares of its \$25 par value common stock for \$1,882,108.31 principal amount of its similar Notes. Both Columbia Transmission's and Columbia of New York's Notes were issued during the period 1933 to 1941 by several predecessor companies and are held by Columbia. The purpose of the issuance of the Notes was to provide funds for general corporate purposes of the respective predecessor companies, the most important purpose of which was to finance a part of the annual construction program. Columbia has not requested principal payments on the Notes for over thirty years with the result that the Notes have been effectively treated as part of the permanent capital structure of their respective issuing and successor companies. Columbia, Columbia Transmission, and Columbia New York are now desirous of exchanging the Notes for a like amount of common stock at par value in order to recognize the change in the characteristic of this capital investment.

The proposal and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by October 30, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as it may be amended, may be authorized.



For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,  
*Acting Secretary.*

[FR Doc. 84-26638 Filed 10-5-84; 8:45 am]  
BILLING CODE 8010-01-M

[Release No. 23443; 70-6306]

**Consolidated Natural Gas Co.;  
Proposed Extension of Period To  
Issue Common Stock Under Dividend  
Reinvestment Plan and Exception  
From Competitive Bidding**

October 3, 1984.

Consolidated Natural Gas Company ("Consolidated"), 100 Broadway, New York, New York 10005, (70-6306) a registered holding company, has filed with this Commission a further post-effective amendment to its proposal in this proceeding pursuant to section 6, 7, and 12(c) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42 and 50(a)(5) promulgated thereunder.

By prior orders in this proceeding dated June 7, 1979, February 12, 1982, and November 10, 1983 (HCAR Nos. 21089, 22388, and 23114), Consolidated was authorized to issue and sell shares of its common stock, \$4 par value, from time to time through December 31, 1984, to Morgan Guaranty Trust Company of New York, agent for participants in Consolidated's Dividend Reinvestment Plan. As of September 28, 1984, 220,391 shares of common stock allocated to the dividend reinvestment plan remained unissued.

By post-effective amendment, Consolidated now requests that the period for the common stock issuance be extended to December 31, 1985, for the remaining 220,391 shares. Consolidated seeks an exception from the competitive bidding requirements of Rule 50 pursuant to subsection (a)(5) thereof.

The proposal and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by October 30, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered and will receive a copy of any notice or order

issued in this matter. After said date, the proposal, as filed or as it may be amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,  
*Acting Secretary.*

[FR Doc. 84-26637 Filed 10-5-84; 8:45 am]  
BILLING CODE 8010-01-M

[Release No. 23441; 70-7015]

**New England Power Co.; Proposed  
Issuance and Sale of Preferred Stock  
and of General and Refunding  
Mortgage Bonds, Issuance and Pledge  
of First Mortgage Bonds, and  
Financing of Pollution Control  
Facilities, and Exception From  
Competitive Bidding**

October 2, 1984.

New England Power Company ("NEP"), 25 Research Drive, Westborough, Massachusetts, an electric utility subsidiary of New England Electric System, a registered holding company, has filed a proposal with this Commission pursuant to sections 6, 7, 9(a), and 10 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 promulgated thereunder.

NEP has requested authorization to implement a general financing plan during the period ending December 31, 1986, calling for one or more issues of securities in an aggregate amount not exceeding \$100 million (not including the issue of Pledged Bonds pursuant to (iv) below), including: (i) the issuance and sale of one or more series of additional preferred stock in an aggregate par value not exceeding \$50 million; (ii) the execution of one or more loan agreements with issuing authorities in an aggregate principal amount not exceeding \$50 million in connection with the issue of pollution control revenue bonds on behalf of NEP; (iii) the issuance and sale of one or more series of General and Refunding Mortgage Bonds ("G&R Bonds") in an aggregate principal amount that, when aggregated with the par value of any additional preferred stock issued, will not exceed \$100 million (all or a portion of which may be issued in connection with the issuance of pollution control revenue bonds); and (iv) the issuance and pledge of one or more series of First Mortgage Bonds aggregating not in excess of the amount of additional G&R Bonds issued.

The capital stock of NEP includes a Dividend Series Preferred (\$100 par value) and a Preferred Stock—Cumulative (\$25 par value). NEP

proposes to issue and sell one or more issues of either class of preferred stock not to exceed an aggregate par value of \$50 million (hereinafter, the "Additional Preferred Stock"). The Additional Preferred Stock may be sold at competitive bidding through the public invitation of sealed, written bids, or NEP may also employ alternative competitive bidding procedures in accordance with the Commission's statement of policy (HCAR No. 22623 (September 2, 1982)) authorizing the use of such procedures in lieu of the procedures prescribed by Rule 50(b). However, NEP indicates that if market conditions make competitive bidding impractical or undesirable, NEP may seek an order authorizing either a private placement or negotiation with underwriters.

NEP also proposes to issue and sell one or more new series of its General and Refunding Mortgage Bonds in an aggregate principal amount that, when aggregated with the par value of any preferred stock issued, would not exceed \$100 million (the "Additional G&R Bonds"). All or a portion of the Additional G&R Bonds may be issued in connection with the issuance of pollution control revenue bonds. The Additional G&R Bonds will mature in not more than 30 years and will be issued under NEP's General and Refunding Mortgage Indenture and Deed of Trust dated as of January 1, 1977, as amended and supplemented (the "G&R Indentures"). All bonds heretofore and hereafter issued under the G&R Indenture are secured by a mortgage lien on substantially all the properties then owned and, to the extent permitted by law, thereafter acquired by NEP, subject to the lien of its First Mortgage Indenture, liens permitted by the G&R Indenture, and property excepted in the G&R Indenture. All bonds issued under the G&R Indenture are further secured by First Mortgage Bonds which NEP is obligated to issue and pledge with the trustee under the G&R Indenture as described below. Except with respect to bonds issued in connection with financing pollution control facilities, the Additional G&R Bonds will be sold at competitive bidding in the same manner and subject to the same qualifications and alternatives as previously specified for the Additional Preferred Stock.

Not in excess of \$50 million aggregate principal amount of the Additional G&R Bonds would be issued to finance NEP's share of pollution control facilities at the Seabrook and Millstone nuclear projects. These bonds would be issued in connection with the issuance of long-term pollution control revenue bonds by the Industrial Development Authority of

the State of New Hampshire ("NHIDA") in the case of the Seabrook I nuclear project and the Connecticut Development Authority ("CDA") in the case of the Millstone 3 nuclear project (NHIDA and CDA are hereinafter referred to individually and collectively as the "Issuing Authority"). NEP's share of these expenses and carrying charges is currently estimated to be approximately \$20 million for the Millstone nuclear project and \$15 million for the Seabrook nuclear project. In addition, NEP has been advised that the Internal Revenue Service may consider certain other costs associated with nuclear plants as being qualified for financing with pollution control revenue bonds. As provided in a loan agreement to be entered into between NEP and the Issuing Authority, the proceeds from the sale of pollution control revenue bonds by the Issuing Authority would be loaned to NEP. In connection with the issuance of long-term pollution control revenue bonds, NEP would contemporaneously issue a corresponding amount of Additional G&R Bonds to the Issuing Authority to secure payment of the principal of, premium, if any, and interest on, the pollution control revenue bonds issued on NEP's behalf. NEP has requested an exception from the competitive bidding pursuant to Rule 50(a)(5) with respect to the issue of Additional G&R Bonds in connection with the execution of one or more loan agreements with the Issuing Authority.

Prior to 1977, NEP financed its construction program in part through the sale of the public of First Mortgage Bonds issued pursuant to an Indenture of Trust and First Mortgage dated as of November 15, 1936, as amended by supplemental indentures thereto (the "First Mortgage"). Since 1977, NEP has issued and sold to the public G&R Bonds pursuant to its G&R Indenture. Under the G&R Indenture, additional property represented by nuclear generating plants and other facilities under construction may be the basis for the issuance of additional G&R Bonds and other actions, whether or not final operating licenses and environmental permits for such facilities have been obtained. Only Pledged Bonds may now be issued under the First Mortgage. In connection with the issue of Additional G&R Bonds, NEP proposes to issue and pledge, from time to time as permitted under the terms of the First Mortgage, one or more series of additional Pledged Bonds. The aggregate principal amount of all Pledged Bonds issued will not exceed the aggregate principal amount of Additional G&R Bonds issued. There

will be no proceeds from the issuance and pledge of the Pledged Bonds. The Pledged Bonds will bear the same interest rates and maturities as the series of Additional G&R Bonds with respect to which they are issued. As long as NEP is not in default under its G&R Indenture, the principal, interest, and premium, if any, on any Pledged Bonds need not be paid to the G&R Trustee. To the extent payments are made on the Pledged Bonds, the amount due from NEP to the holders of the G&R Bonds will be reduced to preclude any double recovery.

NEP will apply the proceeds from the proposed financings to the payment of short-term borrowings incurred for, or to the cost of or to the reimbursement of the treasury for, uncapitalized additions and improvements to plant and property, and other uncapitalized expenditures.

The proposal and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by October 30, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as it may be amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,  
*Acting Secretary.*

[FR Dec. 84-2638 Filed 10-5-84; 8:45 am]  
BILLING CODE 8010-01-M

## DEPARTMENT OF STATE

[CM-8/772]

### Advisory Committee on Historical Diplomatic Documentation; Meeting

The Advisory Committee on Historical Diplomatic Documentation will meet on November 9, 1984, at 9:00 a.m. in Room 1107 of the Department of State.

The Advisory Committee advises the Bureau of Public Affairs, and in particular the Office of the Historian,

concerning problems connected with preparation of the documentary series entitled *Foreign Relations of the United States* and other responsibilities of that Office. Of particular importance are editorial and publishing practice and questions related to declassification of official records as specified in Executive Order 12356 (April 2, 1982).

In accordance with Section 10(d) of the Advisory Committee Act (Pub. L. 92-463) it has been determined that certain discussions during the meeting will necessarily involve consideration of matters recognized as not subject to public disclosure under 5 U.S.C. 552b(c)(1), and that the public interest requires that such activities be withheld from disclosure. The meeting will therefore be closed when such discussions take place, at 2:00 p.m., Friday, November 9.

Persons wishing to attend the meeting should come before 9:00 a.m. on November 9 to the Diplomatic Entrance of the Department of State at 22nd and C Streets, N.W., Washington, D.C. They will be escorted to room 1107 and at the conclusion of the open portion of the meeting back to the Diplomatic Entrance.

Questions concerning the meeting should be directed to William Z. Slany, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, D.C. 20520; telephone (202) 632-8888.

Dated: September 19, 1984.

William Z. Slany,  
*Executive Secretary.*

[FR Dec. 84-2638 Filed 10-5-84; 8:45 am]  
BILLING CODE 4710-11-M

[CM-8/772]

### Shipping Coordinating Committee; Notice of Two Meetings

The Shipping Coordinating Committee (SHC) will conduct an open meeting on November 1, 1984 at 9:30 AM in Room 2415 at U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C.

The purpose of the meeting is to finalize preparations for the 50th Session of the Maritime Safety Committee (MSC) of the International Maritime Organization (IMO) which is scheduled for November 19-30 in London. In particular, the SHC will discuss the development of U.S. positions dealing with, among others, the following topics:

—Survey and Certification  
—Reports of the various Subcommittees

- Implementation of instruments and related matters
- Replacement of tonnage measurement parameters in IMO conventions

Members of the public may attend up to the seating capacity of the room.

The Shipping Coordinating Committee (SHC) will conduct an open meeting on November 1, 1984 at 1:30 PM in Room 2415 at U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C.

The purpose of the meeting is to finalize preparations for the 53rd Session of the Council of the International Maritime Organization (IMO) which is scheduled for November 12-15 in London. In particular, the SHC will discuss the development of U.S. positions dealing with, among others, the following topics:

- Reports of the various Committees
- Personnel Matters
- Financial Matters

Members of the public may attend up to the seating capacity of the room.

For further information on both meetings contact Mr. G.P. Yoest, U.S. Coast Guard Headquarters, (G-CPI), 2100 Second Street, SW., Washington, D.C. 20593. Telephone: (202) 426-2280.

Dated: September 14, 1984.

Samuel V. Smith,  
*Executive Secretary, Shipping Coordinating Committee.*

[FR Doc. 84-28601 Filed 10-5-84; 8:45 am]  
BILLING CODE 4710-07-M

#### [CM-8/770]

#### **Study Group 6 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting**

The Department of State announces that Study Group 6 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet at 9:00 a.m. on October 30, 1984 in the Holzman Seminar Room in Building 1105A at the Air Force Geophysics Laboratory, Hanscom Air Force Base, Massachusetts.

Study Group 6 deals with matters relating to the propagation of radio waves in and through the ionosphere. The purpose of the meeting will be to discuss the status of document preparation for the Final Meeting of international Study Group 6 scheduled for the Fall of 1985.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available. Requests for further

information should be directed to Mr. Richard Shrum, State Department, Washington, D.C. 20520; telephone (202) 632-2592.

Dated: September 21, 1984.

Richard E. Shrum,  
*Chairman, U.S. CCIR National Committee.*

[FR Doc. 84-26603 Filed 10-5-84; 8:45 am]  
BILLING CODE 4710-07-M

#### [CM-8/771]

#### **Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting**

The Department of State announces that Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on October 25, 1984 at the U.S. Naval Observatory, Room 300, Building 52, 34th and Massachusetts Avenue, N.W., Washington, D.C. The meeting will begin at 9:30 a.m.

Study Group 7 deals with time-signal services by means of radiocommunications. The purpose of the meeting is to establish a work program in preparation for the international meeting of Study Group 7 in October, 1985.

Members of the general public may attend the meeting and join in the discussions subject to the instructions of the Chairman. Requests for further information should be directed to Mr. Richard Shrum, State Department, Washington, D.C. 20520 (telephone (202) 632-2592).

Dated: September 21, 1984.

Richard E. Shrum,  
*Chairman, U.S. CCIR National Committee.*

[FR Doc. 84-26602 Filed 10-5-84; 8:45 am]  
BILLING CODE 4710-07-M

#### **DEPARTMENT OF THE TREASURY**

##### **Office of the Secretary**

##### **Public Information Collection Requirements Submitted to OMB for Review**

Dated: October 1, 1984.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collections should be

addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7225, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

##### **Internal Revenue Service**

*OMB Number:* 1545-0192

*Form Number:* IRS Form 4970

*Type of Review:* Extension

*Title:* Tax on Accumulation Distribution of Trusts

*OMB Number:* 1545-0877

*Form Number:* IRS Form 1099-A

*Type of Review:* New

*Title:* Information Return for Acquisition or Abandonment of Secured Property

*OMB Number:* 1545-0046

*Form Number:* IRS Form 982

*Type of Review:* Revision

*Title:* Reduction of Tax Attributes Due to Discharge of Indebtedness

Clearance Officer: Garrick Shear, (202) 566-6254, Room 5571, 1111 Constitution Avenue, NW., Washington, D.C. 20224

OMB Reviewer: Norman Frumkin, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

##### **Bureau of Government Financial Operations**

*OMB Number:* 1510-0020

*Form Number:* BGFO Form 5910

*Type of Review:* Extension

*Title:* Combined Analysis of U.S.

Treasury Time Deposit/Open Account and U.S. Treasury's General Account  
Clearance Officer: Doug Lewis, (202) 287-4500, Bureau of Government Financial Operations, Room 163, Liberty Loan Building, 401 14th Street, NW., Washington, D.C. 20228

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Joseph F. Maty,

*Departmental Reports Management Office.*

[FR Doc. 84-26583 Filed 10-5-84; 8:45 am]

BILLING CODE 4810-25-M

#### **UNITED STATES INFORMATION AGENCY**

##### **Advisory Commission on Public Diplomacy; Closed Meeting**

The United States Advisory Commission on Public Diplomacy will conduct a meeting in Room 600, 301 4th Street, SW. on October 17 from 10:00 a.m. to 12:00 p.m.

The meeting will be closed to the public from 10:00—11:00 a.m., because it will involve a discussion of classified information relating to U.S. policies and public diplomacy programs in Central America. (5 U.S.C. 552b(c)(1)). Premature disclosure of this information is likely to significantly frustrate implementation of proposed Agency action, because there will be a discussion of future Agency policy and programs. (5 U.S.C. 552b(c)(9)(B))

The Commission will meet from 11:00 a.m.—12:00 p.m. to discuss USIA's television programming. This portion of the meeting is open to the public. Please call Gloria Kalamets, (202) 485-2468, if

you plan to attend because entrance to the building is controlled.

Dated: October 2, 1984.

Charles Z. Wick,  
*Director.*

**Determination to Close Advisory  
Commission Meeting of October 17, 1984**

Based on the information provided to the United States Information Agency by the United States Advisory Commission on Public Diplomacy, I hereby determine that the 10:00—11:00 AM portion of the meeting scheduled by the Commission for October 17, 1984 may be closed to the public.

The Commission has requested that part of its October 17 meeting be closed, because it will involve a discussion of classified information relating to U.S. policies and public diplomacy programs in Central America. (5 U.S.C. 552b(c)(1)) Premature disclosure of this information is likely to frustrate significantly the implementation of proposed Agency action, because there will be a discussion of future Agency policy and programs. (5 U.S.C. 552b(c)(9)(B)).

Charles Z. Wick,

*Director.*

[FR Doc. 84-22500 Filed 10-5-84; 8:45 am]

BILLING CODE 8230-01-M

# Sunshine Act Meetings

Federal Register

Vol. 49, No. 196

Tuesday, October 9, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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	Items
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Federal Reserve System.....	2
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### 1

#### FEDERAL HOME LOAN BANK BOARD.

**TIME AND DATE:** See Time and Date below.

**PLACE:** In the Board Room, 6th Floor, 1700 G St., NW., Washington, D.C.

**STATUS:** Open meeting.

#### CONTACT PERSON FOR MORE

**INFORMATION:** Mr. Gravlee, (202-377-6877).

#### MATTERS TO BE CONSIDERED:

*Monday, October 15, 1984 at 10:00 A.M.*

Earnings Based Deposits  
Inclusion of Subordinated Debt as Regulatory Net Worth  
Policies Relating to Insurance of Accounts of De Novo Institutions

*Friday, October 19, 1984 at 2:30 A.M.*

Clarification of Assets Qualifying for the Deferral and Amortization of Gains and Losses  
Accounting for Certain Real Estate Lending Activities

J.J. Finni,

Secretary.

October 4, 1984.

[FR Doc. 84-26673 Filed 10-4-84; 10:23 am]

BILLING CODE 6720-01-M

### 2

#### FEDERAL RESERVE SYSTEM.

**TIME AND DATE:** 11:00 a.m., Tuesday, October 9, 1984.

The business of the Board requires that this meeting be held with less than one week's advance notice to the public, and no earlier announcement of the meeting was practicable.

**PLACE:** 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

**STATUS:** Closed.

#### MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

#### CONTACT PERSON FOR MORE

**INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: October 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-26661 Filed 10-3-84; 4:54 pm]

BILLING CODE 6210-01-M

### 3

#### POSTAL SERVICE

##### Vote to Close Meeting

At its meeting on October 2, 1984, the Board of Governors of the United States Postal Service unanimously voted to close to public observation its meeting, scheduled for November 13, 1984, in Washington, D.C. The meeting will involve: (1) Discussion of personnel matters; (2) a continuation of the discussion of strategies and positions in connection with possible continued collective bargaining negotiations, pursuant to chapter 12 of title 39 United States Code, involving parties to the 1981 National Agreements, between the Postal Service and four labor organizations representing certain postal employees, which expired in July 1984; and (3) further consideration of the Postal Rate Commission's September 7, 1984, Recommended Decision in Docket No. R84-1, the omnibus rate case.

The meeting is expected to be attended by the following persons: Governors Babcock, Camp, McKean, Peters, Ryan, Sullivan, and Voss; Postmaster General Bolger; Deputy Postmaster General Finch; Secretary of the Board Harris; General Counsel Cox; Senior Assistant Postmasters General Coughlin and Morris; and Counsel to the Governors Califano.

As to the first agenda item, the Board determined that pursuant to section 552b(c)(6) of title 5, United States Code, and § 7.3(f) of Title 39 Code of Federal Regulations, the discussion of this matter is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b) because it is likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. The Board also determined that the public interest did not require that the Board's

discussion of this matter be open to the public.

As to the second of these agenda items, the Board is of the opinion that public access to any discussion of possible strategies that Postal Service management may decide to adopt, or the positions it may decide to assert, would be likely to frustrate action to carry out those strategies or assert those positions successfully. In making this determination, the Board is aware that the effectiveness of the collective bargaining process in labor-management relations has traditionally depended on the ability of the parties to prepare strategies and formulate positions without prematurely disclosing them to the opposite party. The public has a particular interest in the integrity of this process as it relates to the Postal Service, since the outcome of the negotiations between the Postal Service and the various postal unions, and consequently the cost, quality and efficiency of postal operations, may be adversely affected if the process is altered.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and § 7.3(c) of Title 39, Code of Federal Regulations, this portion of the meeting is exempt from the opening meeting requirement of the Government in the Sunshine Act (5 U.S.C. 553b(b)), because it is likely to disclose information prepared for use in connection with the negotiation of collective bargaining agreements under chapter 12 of title 39, United States Code, which is specifically exempted from disclosure by section 410(c)(3) of title 39, United States Code. The Board has determined further that, pursuant to section 552b(c)(9)(B) of title 5, United States Code, and § 7.3(i) of Title 39, Code of Federal Regulations, the discussion is exempt because it is likely to disclose information the premature disclosure of which is likely to frustrate significantly proposed Postal Service action. Finally, the Board of Governors has determined that the public has an interest in maintaining the integrity of the collective bargaining process and that the public interest does not require that the Board's discussion of its possible collective bargaining strategies and positions be open to the public.

As to the third agenda item, the Board is of the opinion that public access to

the discussions would be likely to disclose information that will become involved in future rate or classification litigation.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and § 7.3 (c) of Title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirements of the Government in the Sunshine Act, because it is likely to disclose information in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of

title 39, United States Code. The Board has determined further, that pursuant to section 552b(c)(10) of title 5, United States Code, and § 7.3(j) of Title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding or the litigation of a particular case involving a determination on the record after opportunity for a hearing. The Board further determined that the public interest does not require that the Board's discussion of the matter be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and

§ 7.8(a) of Title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c)(3), (6), (9)(B) and (10) of title 5 and sections 410(c)(3) and (4) of title 39, United States Code, and §§ 7.3(c), (f), (i) and (j) of Title 39, Code of Federal Regulations.

David F. Harris,

*Secretary.*

[FR Doc. 84-26725 Filed 10-4-84; 1:43 pm]

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Tuesday  
October 9, 1984

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**Part II**

**Department of  
Commerce**

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**Economic Development Administration**

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**Economic Development Assistance  
Programs as Described in Conference  
Report 98-952, Departments of  
Commerce, Justice, and State, the  
Judiciary, and Related Agencies  
Appropriations, 1985; Availability of  
Funds; Notice**

**DEPARTMENT OF COMMERCE****Economic Development Administration**

**Economic Development Assistance Programs as Described in Conference Report 98-952, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations, 1985; Availability of Funds**

**AGENCY:** Economic Development Administration (EDA), Commerce.

**ACTION:** Notice.

**SUMMARY:**

**I. Program: Planning Assistance for Economic Development Districts, Redevelopment Areas and Indian Tribes**

(Catalog of Federal Domestic Assistance: 11.302 Economic Development—Support for Planning Organizations)

**Summary:** The Economic Development Administration announces its policies and application procedures for funds available to defray administrative expenses in support of the economic development planning efforts of Economic Development Districts (Districts), Redevelopment Areas (Areas) and Indian Tribes under the authority of section 301(b) of the Public Works and Economic Development Act of 1965, as amended (PWEDA), 42 U.S.C. 3151(b).

**Eligibility:** Eligible applicants are Districts, Redevelopment Areas, organizations representing Redevelopment Areas (or parts of such Areas) and Indian Tribes.

**Project Objective:** The primary objective of planning assistance for administrative expenses under section 301(b) is to support the formulation and implementation of economic development programs designed to create or retain full-time permanent jobs and income, particularly for the unemployed and underemployed in the most distressed areas served by the applicant. Planning activities conducted under this assistance must be part of a continuous process involving public officials and private citizens.

**Funding Availability:** Funds in the amount of \$19 million are available in two categories: Districts and Areas (Category A)—\$16 million; and Indian Tribes (Category B)—\$3 million.

**Funding Instrument:** Grant assistance will be provided for up to 75 percent of project costs for Category A grants. Under Category A, the applicant will be required to provide the matching share. Category B grant assistance will be

provided for up to 100 percent of project costs.

**Project Duration:** Both Category A and Category B assistance will be for a period of up to twelve months.

**Selection Criteria:** Priority consideration will be given to currently funded grantees with proposals which are eligible under section 301(b) of PWEDA, 42 U.S.C. 3151(b) and who meet the selection criteria. Funds which remain will be utilized to fund new proposals from other eligible applicants under both Categories A and B. EDA will consider the following factors in evaluating proposals:

1. The responsiveness of the proposed work program to the program regulations contained in 13 CFR 307.22;
2. The economic distress of the area served by the applicant;
3. For currently funded grantees, past performance (including information in scheduled progress reports).

**Pre-Application Procedures:** Currently funded grantees and other eligible applicants under both Categories A and B should begin the application process by submitting a proposal which should include:

1. A letter signed by the chief elected official (Chairman of the Board, Tribal Chairman) or another authorized official of the District, area or Indian Tribe stating their desire to receive funds to carry out the types of planning and administrative activities eligible under the 301(b) program; and

2. A work program outlining the specific economic development planning activities that will be carried out during the grant period.

Currently funded grantees should submit proposals to the appropriate EDA Regional Office no later than November 15, 1984. New applicants should submit their proposals to the appropriate EDA Regional Office no later than March 31, 1985. Proposals postmarked after these dates may not receive consideration.

**Formal Application Procedures:** EDA will evaluate proposals using the selection criteria mentioned above, before authorizing the submission of a formal application. Following a review of proposals, EDA will invite proponents whose proposals are selected for funding consideration to submit a formal application, which may include an ED-430 Planning Grant Application, an ED-503 Assurance of Civil Rights Compliance, and other required application materials.

Applicants whose proposals are not selected shall be notified within 90 days of their respective submission deadlines.

EDA will evaluate applications for conformance with published statutory,

regulatory and policy requirements. Except in cases where work program changes or other factors dictate a different approach, EDA expects to offer grant amendments to currently funded grantees selected for assistance.

Applications proposed for funding under this program are subject to the requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs."

An applicant which has an outstanding accounts receivable with the Federal government may not receive new awards until it has paid its debt(s) or has made arrangements approved by the Department of Commerce to do so.

When all of EDA's funds for this program have been awarded, unsuccessful applicants will be notified of the status of their applications as soon as possible.

**Further Information:** For further information contact the appropriate EDA Regional Office (see list below) or William A. Willis, (202) 377-3027, Office of Planning, Technical Assistance, Research and Evaluation, Economic Development Administration, Room 7866, U.S. Department of Commerce, Washington, D.C. 20230.

**II. Program: Planning Assistance for Urban Areas**

(Catalog of Federal Domestic Assistance: 11.305 Economic Development—State and Local Economic Development Planning)

**Summary:** The Economic Development Administration announces its policies and application procedures for funds available for the Urban Planning Program operated under the authority of section 302(a) of the Public Works and Economic Development Act of 1965, as amended, (PWEDA), 42 U.S.C. 3151a.

**Eligibility:** Eligible applicants under this program are cities and urban counties.

**Project Objective:** The primary objective of planning assistance under section 302(a) is to strengthen the economic development planning and policy-making capabilities of cities and urban counties to ensure a more effective use of available resources in addressing economic problems, particularly those resulting in high unemployment and low incomes. Planning activities conducted under this assistance must be part of a continuous process involving public officials and private citizens.

**Funding Availability:** Funds in the amount of \$5 million are available for providing grant assistance under this program.

**Funding Instrument:** Grant assistance will be provided for up to 75 percent of project costs. Applicants will be required to provide the matching share.

**Project Duration:** Assistance under this program will be for a period of up to twelve months.

**Selection Criteria:** Priority consideration will be given to currently funded grantees as well as cities and counties with populations of 50,000 or more with proposals which are eligible under section 302(a) of PWEDA, 42 U.S.C. 3151a and who meet the selection criteria. Funds which remain will be utilized to fund new proposals from other eligible applicants. EDA will consider the following factors in evaluating proposals:

1. The responsiveness of the proposed work program to the program regulations contained in 13 CFR 307.52(a)(2);

2. The economic distress of the area served by the applicant;

3. For currently funded grantees, past performance (including information in scheduled progress reports).

**Pre-Application Procedures:** Currently funded grantees and other eligible applicants should begin the application process by submitting a proposal which should include:

1. A letter signed by the head of the applicant organization or another authorized official stating their desire to receive funds to carry out the types of planning activities eligible under the 302(a) program; and

2. A work program outlining the specific economic development planning activities that will be carried out during the grant period.

Proposals should be submitted to Beverly L. Milkman, Director, Office of Planning, Technical Assistance, Research and Evaluation, Economic Development Administration, Room 7866, U.S. Department of Commerce, Washington, D.C. 20230.

Currently funded grantees whose grants expire on December 31, 1984, should submit proposals no later than November 15, 1984. Those grantees whose programs expire on March 31, 1985, should submit proposals no later than February 15, 1985. New applicants should submit their proposals no later than February 28, 1985. Proposals postmarked after these dates may not receive consideration.

**Formal Application Procedures:** EDA will evaluate proposals using the selection criteria mentioned above, before authorizing the submission of a formal application. Following a review of proposals, EDA will invite proponents whose proposals are selected for funding consideration to submit a formal

application, which may include an ED-430 Planning Grant Application, an ED-503 Assurance of Civil Rights Compliance, and other required application materials.

Applicants whose proposals are not selected shall be notified within 90 days of their respective submission deadlines.

EDA will evaluate applications for conformance with published statutory, regulatory and policy requirements. Except in cases where work program changes or other factors dictate a different approach, EDA expects to offer grant amendments to currently funded grantees selected for assistance.

Applications proposed for funding under this program are subject to the requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs."

An applicant which has an outstanding accounts receivable with the Federal government may not receive new awards until it has paid its debt(s) or has made arrangements approved by the Department of Commerce to do so.

When all of EDA's funds for this program have been awarded, unsuccessful applicants will be notified of the status of their applications as soon as possible.

**Further Information:** For further information contact William A. Willis, (202) 377-3027 at EDA Headquarters in Washington, D.C.

### III. Program: Planning Assistance for States

(Catalog of Federal Domestic Assistance: 11.305 Economic Development—State and Local Economic Development Planning)

**Summary:** The Economic Development Administration announces its policies and application procedures for funds available for the State Planning Program operated under the authority of section 302(a) of the Public Works and Economic Development Act of 1965, as amended, (PWEDA), 42 U.S.C. 3151a.

**Eligibility:** Eligible applicants under this program are States and territories.

**Project Objective:** The primary objective of planning assistance under section 302(a) is to strengthen the economic development planning capabilities of States and other eligible entities to ensure a more effective use of available resources in addressing economic problems, particularly those resulting in high unemployment and low incomes. Planning conducted under this assistance must be part of a continuous process involving public officials and private citizens.

**Funding Availability:** Funds in the amount of \$3 million are available for this program.

**Funding Instrument:** Grant assistance will be provided for up to 75 percent of project costs. Applicants will be required to provide the matching share.

**Project Duration:** Assistance under this program will be for a period of up to twelve months.

**Selection Criteria:** EDA will consider the following factors in evaluating proposals:

1. The responsiveness of the proposed work program to the program regulations contained in 13 CFR 307.52(a)(1);

2. The economic distress of the area served by the applicant;

3. For currently funded grantees, past performance (including information in scheduled progress reports).

**Pre-Application Procedures:** Currently funded grantees and other eligible applicants should begin the application process by submitting a proposal which should include:

1. A letter signed by the head of the applicant organization or another authorized official stating their desire to receive funds to carry out the types of planning activities eligible under the 302(a) program; and

2. A work program outlining the specific economic development planning activities that will be carried out during the grant period.

Proposals should be submitted to Beverly L. Milkman, Director, Office of Planning, Technical Assistance, Research and Evaluation, Economic Development Administration, Room 7866, U.S. Department of Commerce, Washington, D.C. 20230.

Currently funded grantees whose grants expire on December 31, 1984, should submit proposals no later than November 15, 1984. Those grantees whose programs expire on March 31, 1985, should submit proposals no later than February 15, 1985. New applicants should submit their proposals no later than February 28, 1985. Proposals postmarked after these dates may not receive consideration.

**Formal Application Procedures:** EDA will evaluate proposals using the selection criteria mentioned above, before authorizing the submission of a formal application. Following a review of proposals, EDA will invite proponents whose proposals are selected for funding consideration to submit a formal application, which may include an ED-430 Planning Grant Application, an ED-503 Assurance of Civil Rights - Compliance, and other required application materials.

Applicants whose proposals are not selected shall be notified within 90 days of their respective submission deadlines.

EDA will evaluate applications for conformance with published statutory, regulatory and policy requirements. Except in cases where work program changes or other factors dictate a different approach, EDA expects to offer grant amendments to currently funded grantees selected for assistance.

Applications proposed for funding under this program are subject to the requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs."

An application which has an outstanding accounts receivable with the Federal government may not receive new awards until it has paid its debt(s) or has made arrangements approved by the Department of Commerce to do so.

When all of EDA's funds for this program have been awarded, unsuccessful applicants will be notified of the status of their applications as soon as possible.

**Further Information:** For further information contact William A. Willis (202) 377-3027 at EDA Headquarters in Washington, D.C.

#### IV Program: Technical Assistance for University Centers

(Catalog of Federal Domestic Assistance: 11.303 Economic Development—Technical Assistance)

**Summary:** The Economic Development Administration announces its policies and application procedures for funds available to support University Centers under the authority of section 301(a) of the Public Works and Economic Development Act of 1965, as amended (PWEDA), 42 U.S.C. 3151(a). University Centers, utilizing external resources and those of the college or university of which they are an integral element, provide technical and other kinds of assistance to public bodies, non-profit organizations and private firms located chiefly in areas of economic distress.

**Eligibility:** Eligible applicants under this program are public and private colleges and universities.

**Program Objective:** To stimulate colleges and universities to mobilize more fully their resources to overcome problems which impede economic development in the area or region they serve.

**Funding Availability:** Funds in the amount of \$4 million are available for this program.

**Funding Instrument:** EDA will provide grants and cooperative agreements with maximum EDA participation up to 75 percent of the proposed project cost. Applicants will be required to provide the matching share.

**Project Duration:** Assistance under this program may be for a period of up to twelve months.

**Selection Criteria:** Priority consideration will be given to the refunding of those 40 Centers which presently make up the University Center program and who meet the selection criteria. Funds which remain will be utilized to fund new Centers who meet the selection criteria. EDA will consider the following factors in evaluating proposals:

1. The nature and degree of distress in the area or region the Center will serve.
2. The program which the Center proposes to carry out to meet the needs of the service area, its relationship to activities of other organizations engaged in economic and business development, and its furtherance of the goals of the college or university.
3. The commitment of the University to the Center's mission and purpose in terms of both its financial support and the dedication of other resources.
4. The Center's capacity to provide technical and other types of assistance to jurisdictions and organizations in the service area.
5. Relationship to and support which Center will provide for local, regional or state economic development strategies.
6. Relationship to EDA Regional Office Strategies, and to Department of Commerce objectives in so far as they are not inconsistent with the developmental needs of the area to be served.
7. Absence of another EDA-funded Center in the State.

#### Pre-Application Procedures

**A. Letters of Interest:** Interested colleges and universities not presently in the program should indicate that they seek support by submitting a letter signed by the institution's President or another authorized official to the appropriate EDA Regional Office stating that they wish to participate in EDA's University Center program. The letter should identify the area their Center will serve and the degree and kind of economic distress it suffers; the relationship of the program to State, regional or local economic development strategies, as appropriate; and the kinds of activity to be undertaken with EDA funds.

The letters of interest by new applicant colleges and universities should be submitted to the appropriate EDA Regional Office no later than January 31, 1985. Letters postmarked after this date may not be considered.

**B. Proposals:** Interested colleges and universities presently in the program and new applicant colleges and

universities selected by EDA for consideration of inclusion of their university or college in the program, will be invited to submit a proposal. The Regional Office will provide a proposal package to these applicants.

New applicant colleges and universities will be advised no later than April 30, 1985, whether they are to submit a proposal.

**Formal Application Procedures:** EDA will evaluate proposals using the selection criteria mentioned above, before authorizing the submission of a formal application. Following a review of project proposals, EDA will invite proponents whose projects are selected for funding consideration to submit a formal application.

EDA will evaluate applications for conformance with published statutory, regulatory and policy requirements.

An applicant which has an outstanding accounts receivable with the Federal government may not receive new awards until it has paid its debt(s) or has made arrangements approved by the Department of Commerce to do so.

When all of EDA's funds for this program have been awarded, unsuccessful applicants will be notified of the status of their applications as soon as possible.

**Further Information:** For further information contact the appropriate EDA Regional Office (see list below) or Scott Rutherford at (202) 377-2812, Office of Planning, Technical Assistance, Research and Evaluation, Economic Development Administration, Room 7866, U.S. Department of Commerce, Washington, D.C. 20230.

#### V. Program: Local Technical Assistance Projects

(Catalog of Federal Domestic Assistance: 11.303 Economic Development—Technical Assistance)

**Summary:** The Economic Development Administration announces its policies and application procedures for funds available to provide technical assistance as may be required to ensure the successful implementation of area and State economic development programs and projects designed to aid areas experiencing economic distress. Funding will be provided under the authority of section 301(a) of the Public Works and Economic Development Act of 1965, as amended (PWEDA), 42 U.S.C. 3151(a).

**Eligibility:** Eligible applicants under this program include: public or private non-profit State, area, district, or local organizations, private individuals, partnerships, firms, corporations, and other suitable institutions (including

Indian tribes, cities, State agencies and educational institutions).

**Project Objective:** The objective of section 301(a) local technical assistance grants and cooperative agreements is to provide help that will be useful in alleviating or preventing conditions of excessive unemployment or underemployment in individual States or sub-State areas.

**Funding Availability:** Funds in the amount of \$1.5 million are available for the Local Technical Assistance Program.

**Funding Instrument:** EDA will provide grants and cooperative agreements with maximum EDA participation up to 75 percent of the proposed project cost. Applicants will be required to provide the matching share.

**Project Duration:** Assistance will be for the period of time required to complete the scope of work. This will generally not exceed twelve months.

**Selection Criteria:** Priority will be given to projects which are eligible under section 301a of PWEDA, 42 U.S.C. 3151a, if such projects:

1. Lead to the near-term creation and retention of private sector jobs;
2. Stimulate significant private and non-Federal public capital formation and investment for economic development purposes;
3. Are consistent with the EDA approved overall economic development program (OEDP) for the area in which it is, or will be, located, and have been recommended by the OEDP Committee;
4. Combine support for the following Department of Commerce goals with the accomplishment of economic development objectives: export promotion, productivity enhancement, technology development and utilization, and minority business development;
5. Further the objectives of EDA Regional Office Strategies. (Information on Regional Office Strategies must be obtained from the appropriate Regional Office.)

Projects will also be evaluated on the quality of the proposed work program and the qualifications of the applicant to carry out that work program.

**Pre-Application Procedures:** Interested applicants should contact the Economic Development Representative for the area or the appropriate EDA Regional Office for a proposal package. The EDA Regional Office can furnish the name, address and telephone number of the Economic Development Representative for the applicant's area.

Proposals should be submitted to the appropriate EDA Regional Office as early in the fiscal year as possible, but not later than February 28, 1985. Proposals postmarked after that date may not receive priority consideration.

**Formal Application Procedures:** EDA will evaluate proposals using the selection criteria mentioned above, before authorizing the submission of a formal application. Following a review of project proposals, EDA will invite proponents whose projects are selected for funding consideration to submit a formal application.

Applicants whose proposals are not selected will be notified within 90 days of the February 28 submission deadline.

EDA will evaluate applications for conformance with published statutory, regulatory and policy requirements.

Applications proposed for funding under this program are subject to the requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs."

An applicant which has an outstanding accounts receivable with the Federal government may not receive new awards until it has paid its debt(s) or has made arrangements approved by the Department of Commerce to do so.

When all of EDA's funds for this program have been awarded, unsuccessful applicants will be notified of the status of their applications as soon as possible.

**Further Information:** For further information contact the appropriate EDA Regional Office (see list below) or Scott Rutherford at (20) 377-2812, Office of Planning, Technical Assistance, Research and Evaluation, Economic Development Administration, Room 7866, U.S. Department of Commerce, Washington, D.C. 20230.

#### VI. Program: National Technical Assistance Projects

(Catalog of Federal Domestic Assistance: 11.303 Economic Development—Technical Assistance)

**Summary:** The Economic Development Administration announces its policies and application procedures for funds available to provide technical assistance as may be required to under the National Technical Assistance Program. Funding will be provided under the authority of section 301(a) of the Public Works and Economic Development Act of 1965, as amended (PWEDA), 42 U.S.C. 3151(a).

**Eligibility:** Eligible applicants under this program include: public or private non-profit State, area, district, or local organizations; private individuals, partnerships, firms, corporations, and other suitable institutions (including Indian tribes and educational institutions).

**Project Objective:** The objective of section 301(a) technical assistance grants and cooperative agreements is to provide help that will be useful in

alleviating or preventing conditions of excessive unemployment or underemployment. Grants and cooperative agreements will be made to address topical issues and problems of concern to the economic development community at large, demonstrate the effectiveness of new approaches to stimulating economic development in depressed areas, and/or disseminate information on critical economic development issues to public and private organizations and individuals engaged in development activities.

**Funding Availability:** Funds in the amount of \$2 million are available for this program.

**Funding Instrument:** EDA will provide grants and cooperative agreements with EDA participation up to 75 percent of the proposed project cost, normally. Applicants will be required to provide the matching share.

**Project Duration:** Assistance will be for the period of time required to complete the scope of work. This will generally not exceed twelve months.

**Selection Criteria:** Proposals will be evaluated on the quality of the proposed work program and the qualifications of the applicant to carry out that work program.

Priority consideration will be given to projects that combine support for economic development objectives with other Department of Commerce goals, including export promotion, productivity enhancement, technology development and utilization and minority business development.

Additional selection criteria will be spelled out in the National Technical Assistance Program material which will be provided by EDA prospective applicants.

#### Pre-Application Procedures

**A. Letters of Interest:** Interested applicants should submit a letter signed by the head of the applicant organization or another authorized official, to EDA Headquarters stating their desire to receive funds under the National Technical Assistance Program.

Letters requesting assistance under this program should be submitted to Beverly L. Milkman, Director, Office of Planning, Technical Assistance, Research and Evaluation, Economic Development Administration, Room 7866, U.S. Department of Commerce, Washington, D.C. 20230. Letters of interest must be submitted no later than November 30, 1984. Letters postmarked after this date may not be considered.

**B. Proposals:** After receipt of such letters, EDA will provide each prospective applicant with information



concerning the submission of funding proposals including the following items:

1. Secondary program goals;
2. Project selection criteria;
3. Suggested proposal format;
4. Other pre-application material; and
5. Proposal submission deadline. It is

expected that the submission deadline will be no later than February 15, 1985. Proposals postmarked after the deadline indicated in the proposal package may not receive consideration.

**Formal Application Procedures:** EDA will evaluate proposals using the selection criteria mentioned above, before authorizing the submission of a formal application. Following a review of project proposals, EDA will invite proponents whose projects are selected for funding consideration to submit a formal application.

Applicants whose proposals are not selected will be notified within 90 days of the deadline for the submission of proposals.

EDA will evaluate applications for conformance with published statutory, regulatory and policy requirements.

Applications proposed for funding under this program involving substantial on-site work in individual States are subject to the requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs."

Applicants may be subject to pre-award accounting system surveys by the Department of Commerce's Office of the Inspector General.

An applicant which has an outstanding accounts receivable with the Federal government may not receive new awards until it has paid its debt(s) or has made arrangements approved by the Department of Commerce to do so.

When all of EDA's funds for this program have been awarded, unsuccessful applicants will be notified of the status of their applications as soon as possible.

**Further Information:** For further information contact Richard E. Hage at (202) 377-2127 in EDA Headquarters in Washington, D.C.

#### VII. Program: Research and Evaluation Projects

(Catalog of Federal Domestic Assistance: 11.312 Economic Development—Technical Assistance)

**Summary:** The Economic Development Administration announces its policies and application procedures for funds available for research and evaluation projects under the authority of Section 301(c) of the Public Works and Economic Development Act of 1965, as amended (PWEDA), 42 U.S.C. 3151(c).

**Eligibility:** Eligible applicants are private individuals, partnerships, firms,

corporations, and other suitable institutions.

**Project Objectives:** The objective of section 301(c) grants, and cooperative agreements is to:

1. Assist in determining the causes of unemployment, underemployment, underdevelopment, and chronic depression in various areas and regions of the Nation.

2. Assist in the formulation and implementation of national, State, and local programs which will raise income levels and otherwise produce solutions to the problems resulting from the above conditions.

3. Evaluate the effectiveness of approaches and techniques employed to alleviate economic distress.

**Funding Availability:** Funds in the amount of \$2 million are available for this program.

**Funding Instrument:** EDA will provide grants and cooperative agreements with maximum EDA participation up to 100 percent of the proposed project cost.

**Selection Criteria:** EDA will consider the following factors in evaluating proposals:

1. The applicant's demonstrated knowledge of the problem proposed for investigation;
2. Quality of an applicant's workplan;
3. Qualifications of an applicant's investigators and/or evaluators;
4. The budget information submitted as part of the proposal.

Priority consideration will be given to proposals involving the following broad areas of Department of Commerce interest:

1. Regional growth;
2. Unemployment;
3. Underemployment (income levels);
4. Rural economic development;
5. Industrial location;
6. Private sector participation in economic development efforts;
7. State and local government economic development efforts;
8. Migration;
9. Export development;
10. Minority economic and business development;
11. The role of productivity and technology in economic development.

**Application Procedures:** Interested applicants should submit one original and two copies of brief concept proposals which should include:

1. A description of the proposed project and workplan;
2. Funding sought including budgetary data;
3. Vita; and
4. General corporate capability data.

Proposals should be submitted to David H. Geddes, Chief, Research and Evaluation Division, Office of Planning,

Technical Assistance, Research and Evaluation, Economic Development Administration, Room 7850, U.S. Department of Commerce, Washington, D.C. 20230. Proposals postmarked after February 28, 1985, may not receive consideration.

Applicants whose proposals are not selected will be notified within 90 days of the February 28 submission deadline.

Applicants may be subject to pre-award accounting system surveys by the Department of Commerce's Office of the Inspector General.

An applicant which has an outstanding accounts receivable with the Federal government may not receive new awards until it has paid its debt(s) or has made arrangements approved by the Department of Commerce to do so.

**Further Information:** For further information contact David H. Geddes at (202) 376-4085 in EDA Headquarters in Washington, D.C.

#### VIII. Program: Public Works and Development Facilities Assistance

(Catalog of Federal Domestic Assistance: 11.300 Economic Development Grants and Loans for Public Works and Development Facilities. 11.304 Economic Development Public Works Impact Program (PWIP))

**Summary:** The Economic Development Administration announces its policies and application procedures for funds available for the Public Works program under the authority of Titles I and IV of the Public Works and Economic Development Act of 1965, as amended, (PWEDA), 42 U.S.C. 3131 and 42 U.S.C. 3171(a)(3).

**Eligibility:** Eligible applicants under this program are: any State, or political subdivision thereof, Indian tribe, or private or public non-profit organization or association representing any redevelopment area or part thereof, if the project is located within an EDA-designated redevelopment area. Further information on the areas which are eligible for this EDA program is available from EDA's Regional Offices.

**Program Objective:** The purpose of the Public Works grant program is to assist communities with the funding of public works and development facilities that contribute to the creation or retention of private sector jobs and to the alleviation of unemployment and underemployment. Such assistance is designed to help communities achieve lasting improvement by establishing stable and diversified local economies and by improving local conditions.

**Funding Availability:** Funds in the amount of \$130 million are available for this program.

**Funding Instrument:** EDA will provide grants with maximum EDA participation normally ranging from 50 percent to 80 percent of the project cost according to existing regulations. Applicants will be required to provide the matching share.

**Selection Criteria:** For both Regular Public works projects and Public Works Impact Program (PWIP) projects, priority consideration will be given to projects which best meet the relative needs of eligible areas, and are in areas of high unemployment and/or low per capita income.

#### 1. Regular Public Works Projects

A. *Priority* will be given to projects which are eligible under section 101(a)(1) (A)—(C) of PWEDA, 42 U.S.C. 3131(a)(1) (A)—(C), if such projects:

1. Will improve the opportunities, in the area where such project is or will be located, for the successful establishment or expansion of industrial or commercial plants or facilities;
2. Assist in creating or retaining private sector jobs in the near-term and assist in the creation of additional long-term employment opportunities for such area;
3. Benefit the long-term unemployed and members of low-income families who are residents of the area to be served by the project;
4. Fulfill a pressing need of the area, or part thereof, in which it is, or will be located;
5. Are consistent with the EDA approved overall economic development program (OEDP) for the area in which it is, or will be located, and have been recommended by the OEDP Committee;
6. Have broad community support;
7. Are supported by significant private sector investment;
8. Have adequate local matching funds with evidence of firm commitment;
9. Have a favorable cost per job ratio;
10. Complement Department of Commerce goals such as reducing the Federal trade deficit by increasing export development, assisting minority business development, and assisting the development of domestic fisheries.

B. *Industrial park/site projects.* Projects which will primarily serve an industrial park or site will be evaluated on such additional factors as the:

1. Occupancy rates for existing developed industrial acres currently available within a 25 mile radius of the project site (For cities with populations over 50,000, the prescribed area may be determined by an analysis of industrial sites within an established industrial

area, which may be less than a 25 mile radius. Contact the Economic Development Representative for the area or the appropriate EDA Regional Office for assistance.);

2. Commitments from identified tenants to locate in the industrial park or site;
3. Plans for maximum utilization of the industrial park or site;
4. Pressing need of the area for industrial park or site space to attract potential industries; i.e., high occupancy rate of existing industrial parks within the prescribed area or lack of industrial parks or sites within the prescribed area.

C. *Low priority* will be given to projects which:

1. Do not benefit the long-term unemployed;
2. Cannot be implemented within a reasonable period of time;
3. Support downtown commercial activities such as parking garages, pedestrian walkways and non-industrial street repairs, unless it can be demonstrated that EDA's assistance is critical to and an integral part of the local economic development strategy for the area and required to support other ongoing development investments;
4. Involve substantial land purchase;
5. Involve public buildings;
6. Do not have the applicant's share of project funding readily available;
7. Support tourism or recreational activities, unless it can be demonstrated that tourism is the major industry in the area or will assist in creating a significant number of jobs and substantially diversify the area's economy, in which case the project must directly assist in providing job opportunities for the unemployed and underemployed residents of the area and otherwise support the long-term growth of the area.

#### II. Public Works Impact Program

A. *Priority* will be given to Public Works Impact Program (PWIP) projects eligible under section 101a(1)(D) of PWEDA, 42 U.S.C. 3131(a)(1)(D), if such projects:

1. Will directly or indirectly assist in creating employment opportunities by providing immediate useful work (i.e. construction jobs) or other economic benefits for the unemployed and underemployed residents in the project area;
2. Will primarily benefit low income families by providing essential services;
3. Have on-site labor costs as a substantial portion of the total estimated project costs;

4. Can be substantially completed within 12 months from the start of construction;

5. Improve the community or economic environment in areas of severe economic distress.

B. *Supplementary grant rates for PWIP projects* will be determined as set forth in 13 CFR 305.5(b)(3).

#### *Pre-Application Procedures:*

Interested applicants should contact the Economic Development Representative for the area or the appropriate EDA Regional Office for a proposal package. The EDA Regional Office can furnish the name, address and telephone number of the Economic Development Representative for the applicant's area. EDA will screen proposals before authorizing the submission of a formal application. Proposals will be evaluated based upon:

- A. The availability of funds as allocated to the Regional Offices;
- B. The conformance with the selection criteria mentioned above and with statutory requirements;
- C. The merits of the proposed projects in addressing the relative economic development needs of eligible areas.

#### *Formal Application Procedures:*

Following a review of project proposals, EDA will invite proponents whose projects are selected for funding consideration to submit a formal application. Proponents of project proposals not selected for funding consideration will be so advised as soon as possible.

EDA will evaluate applications for conformance with published statutory, regulatory and policy requirements.

Applications proposed for funding under this program are subject to the requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs."

An applicant which has an outstanding accounts receivable with the Federal Government may not receive new awards until it has paid its debt(s) or has made arrangements approved by the Department of Commerce to do so.

When all of EDA's Regular Public Works funds and PWIP funds have been awarded, unsuccessful applicants will be notified of the status of their applications as soon as possible.

**Further Information:** For further information contact the appropriate EDA Regional Office (see list below).

#### IX. Program: Economic Adjustment Assistance

(Catalog of Federal Domestic Assistance Nos.: 11.307 and 11.311 Special Economic Development and Adjustment Assistance

Program—Long-Term Economic Deterioration (LTED) and Sudden and Severe Economic Dislocation (SSED))

**Summary:** The Economic Development Administration announces its policies and application procedures for grants available under its Economic Adjustment Program. This program authorized under Title IX of the Public Works and Economic Development Act of 1965, as amended, (PWEDA), 42 U.S.C. 3241–3245, may assist areas experiencing long-term economic deterioration (LTED) and areas threatened or impacted by sudden and severe economic dislocation (SSED).

**Program Objective:** The LTED program assists eligible applicants in implementing strategies that halt and reverse the long-term decline of their economies. Grants for Revolving Loan Funds (RLF) are usually provided under the LTED program.

The SSED program assists eligible applicants in responding to actual or threatened major job losses (dislocations) and other severe economic adjustment problems. It is designed to assist communities to prevent a sudden, major job loss, to reestablish employment opportunities as quickly as possible after one occurs, or to meet special needs resulting from severe changes in economic conditions. SSED assistance is intended to respond to structural rather than cyclical job losses. Thus, the dislocation must involve a permanent job loss. Assistance may be in the form of either a Strategy Grant or an Implementation Grant.

**Fund Availability:** Grant funds in the amount of \$33 million are available for the Economic Adjustment program in FY 1985. Not less than \$16.5 million shall be available for Revolving Loan Fund (RLF) projects.

**Funding Instrument:** EDA will normally provide grants with maximum EDA participation of 75 percent of the project cost. Applicants will be required to provide the matching share.

**Eligible Applicants:** Eligible applicants for areas meeting the eligibility criteria described below include: a redevelopment area or economic development district established under Title IV of this Act, (PWEDA), 42 U.S.C. 3161, an Indian tribe; a State, a city or other political subdivision of a State, or a consortium of such political subdivisions, a Community Development Corporation defined in the Community Economic Development Act, 42 U.S.C. 9801, a nonprofit organization determined by EDA to be the representative of a redevelopment area.

**Eligible Areas:** In order to receive priority consideration for funding under the LTED program, an area must be experiencing at least one of three economic problems: very high unemployment; low per capita income; or chronic distress—failure to keep pace with national economic growth trends over the last five years. Eligibility is determined statistically. Further information is available from EDA's Regional Offices.

In order to receive priority consideration for funding under the SSED program, an area must show actual or threatened permanent job losses that exceed the following threshold criteria, unless otherwise determined by the Assistant Secretary:

1. For areas not in Standard Metropolitan Statistical Areas:

a. If the unemployment rate of the Labor Market Area exceeds the national average, the dislocation must amount to the lesser of 2 percent of the employed population, or 500 direct jobs.

b. If the unemployment rate of the Labor Market Area is equal to or less than the national average, the dislocation must amount to the lesser of 4 percent of the employed population, or 1,000 direct jobs.

2. For areas within Standard Metropolitan Statistical Areas:

a. If the unemployment rate of the Standard Metropolitan Statistical Area exceeds the national average, the dislocation must amount to the lesser of .1 percent of the employed population, or 4,000 direct jobs.

b. If the unemployment rate of the Standard Metropolitan Statistical Area is equal to or less than the national average, the dislocation must amount to the lesser of .5 percent of the employed population, or 8,000 direct jobs.

Additionally, 50 percent of the job loss must result from the action of a single employer, or 80 percent of the job loss must occur in a single industry classification (i.e., two digit SIC code).

In the case of a Presidentially declared natural disaster, the area eligibility criteria are waived. In other similarly exceptional circumstances, the criteria may be partially waived at the discretion of the Assistant Secretary.

Actual dislocations must have occurred within one year and threatened dislocations must be anticipated to occur within two years of the date EDA is contacted.

Economic Adjustment proposals will be assessed according to the evaluation criteria listed below.

**Evaluation Criteria:** Proposals will be evaluated based on conformance with statutory and regulatory requirements, the economic adjustment needs of the

area, the merits of the proposed project in addressing those needs and the applicant's ability to manage the grant effectively.

Key factors in EDA's selection of proposed LTED/RLF projects include:

1. *Economic and Financial Needs of the Project Area:*

a. Areas with the highest levels of economic distress (high unemployment, low per capita income, vacant plants and deteriorating infrastructure, etc.) will receive priority consideration.

b. Financial need will be evaluated based on the applicant's analysis of the local capital market and how clearly this analysis defines the financial problems to be addressed by the RLF project.

2. *Objectives and Benefits of Proposed Projects:* Priority will be given to projects which can:

a. Stimulate private sector employment. The number and types of jobs to be created/retained will be key factors in project selection along with the job/cost ratio established for the RLF portfolio as a whole;

b. Target assistance to specific needs within the area. RLF assistance may be targeted to specific geographic areas, industries, types of employers, types of workers, sizes of firms or in other ways that maximize the impact of RLF resources on area needs;

c. Leverage higher ratios of private investment than the required minimum ratio of two private dollars to one RLF dollar. (NOTE: the local share or other funds used by the RLF to finance loans can not be counted as "leveraged" dollars);

d. Direct new job opportunities to the long-term unemployed and underemployed;

e. Assist minorities, women and members of other economically disadvantaged groups in obtaining RLF loans;

f. Support the goals of state and local economic developments plans for the area, including the OEDP and the Title IX adjustment strategy, as appropriate;

g. Support other ongoing or future development investments, particularly other elements of the Title IX adjustment strategy;

h. Provide technical and management assistance for RLF borrowers, in addition to loan funds;

i. Use creative financing techniques to overcome specific gaps in the local capital market;

j. Make loans on a timely basis. The implementation schedule for RLF projects will normally require that RLF loans in the initial round be closed (and

all EDA funds disbursed) within 2 years of grant approval;

k. Include a large matching share than the required 25 percent or secure commitments for future funding from other public or private sources; and

l. Coordinate activities with other economic development organizations, loan programs and private lenders in the area.

3. *Effective Management of the RLF:* EDA will also evaluate proposed projects to determine that the RLF will be properly managed. Key factors include:

a. A strong and effective Loan Administrative Board with broad community representation, including appropriate private sector, minority and women's representation.

b. Staff capacity in program and policy development, finance, law, marketing, credit analysis, loan packaging, processing and servicing.

c. Efficient procedures for loan selection, approval, and servicing which emphasize the economic development potential of loans as well as sound management and financing practices.

d. Adequate resources to cover administrative costs of the RLF.

e. The applicant's experience and capacity for administering economic and business loan programs will also be a major factor in project selection. If the applicant has designated another organization to administer the project, EDA will evaluate the experience and capacity of that organization, rather than the applicant's.

Nongovernment (but not including EDD's) applicants must be sponsored by the local or State government having jurisdiction over the project area and the sponsor must be willing to assume responsibility for operating the RLF should the nongovernment entity no longer be able to administer the project.

Key factors in EDA's selection of proposed SSED projects include:

1. The severity of the dislocation as measured by, but not limited to, the following factors:

a. The degree to which the number of dislocated workers exceeds the eligibility threshold;

b. The proportion of the total job loss represented by a single employer; and

c. The proportion of employment in a single industry classification represented by the firm(s) closing.

2. The objectives and benefits of

proposed activities as measured by the extent to which:

a. *For Implementation Grants:*

(1) Job creation or retention in the near term is emphasized versus more long-term, general economic development;

(2) The jobs to be created and/or retained are permanent and will directly benefit the dislocated workers;

(3) The response to the problem is timely;

(4) EDA assistance will be complemented by, or will complement, appropriate State and local efforts, for example, training and job placement services, other Federal investments, for example, Urban Development Action Grants, and private sector support;

(5) Creativity is exhibited in using the range of available Title IX program tools;

(6) The cost per job created or retained is minimized;

(7) In the case of a Revolving Loan Fund, the recycled loan proceeds generate economic development benefit; and

(8) The local matching share exceeds the required 25 percent.

b. *For Strategy Grants:*

(1) Applicant has demonstrated the capacity to manage the planning process and subsequent implementation activities;

(2) Proposed scope of work is responsive to the problem;

(3) The focus of the planning effort is on the generation of practical and implementable solutions; and

(4) The local matching share exceeds the required 25 percent.

*Pre-Application Procedures:*

Interested applicants should contact the Economic Development Representative for the area or the appropriate EDA Regional Office for a proposal package. The EDAs Regional Office can furnish the name, address and telephone number of the Economic Development Representative for the applicant's area.

Project proposals, submitted by eligible applicants, will be evaluated by EDA on the basis of:

• Conformance with the evaluation criteria mentioned above and statutory and policy requirements; and

• The availability of funds.

*Formal Application Procedures:*

Following a review of project proposals, EDA will invite proponents whose

projects are selected for funding consideration to submit a formal application. Proponents whose project proposals are not selected for funding consideration will be so advised as soon as possible.

EDA will evaluate applications for conformance with published statutory, regulatory and policy requirements.

Applications proposed for funding under this program are subject to the requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs".

An applicant with an outstanding accounts receivable with the Federal government may not receive a further award until the debt(s) have been paid or arrangements to do so have been approved by the Department of Commerce.

When all of EDA's funds for the SSED and LTED programs have been awarded, unsuccessful applicants will be notified of the status of their applications as soon as possible.

*Further Information:* For further information about this program, contact the appropriate EDA Regional Office or Paul J. Dempsey, Director, Office of Economic Adjustment, Economic Development Administration, Room 7217, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-2659.

*EDA Regional Offices:* The EDA Regional Offices and the States they cover are:

• Philadelphia Regional Office, 4th Floor, Mall Building, 325 Chestnut Street, Philadelphia, Pennsylvania 19106, Telephone: (215) 597-4603; serving Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virginia, Virgin Islands, and West Virginia.

• Atlanta Regional Office, Suite 750, 1365 Peachtree Street, N.E., Atlanta, Georgia 30309, Telephone: (404) 881-7401; serving Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

• Chicago Regional Office, Suite A-1630, 175 W. Jackson Blvd., Chicago, Illinois 60604, Telephone: (312) 353-7707;

serving Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

- Austin Regional Office, Suite 201, Grant Bldg., 611 East Sixth Street, Austin, Texas 78701, Telephone: (512) 482-5461; serving Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

- Denver Regional Office, Room 300, Tremont Center, 333 West Colfax Avenue, Denver, Colorado 80204, Telephone: (303) 844-4714, serving Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming.

- Seattle Regional Office, Suite 500, Lake Union Bldg., 1700 Westlake Avenue, North, Seattle, Washington 98109, Telephone: (206) 442-5096; serving Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, and Washington.

Dated: September 28, 1984.

J. Bonnie Newman,

*Assistant Secretary for Economic Development.*

[FR Doc. 84-26595 Filed 10-5-84; 8:45 am]

BILLING CODE 3510-24-M

**14 CFR Part 21**

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**Tuesday  
October 9, 1984**

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**Part III**

**Department of  
Transportation**

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**Federal Aviation Administration**

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**14 CFR Part 21**

**Market Survey Experimental Certificates  
for Aircraft Modifiers; Final Rule**



## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 21

[Docket No. 23544; Amdt. No. 21-57]

Market Survey Experimental  
Certificates for Aircraft ModifiersAGENCY: Federal Aviation  
Administration (FAA), DOT.

ACTION: Final rule.

**SUMMARY:** This amendment permits aircraft modifiers who are neither aircraft nor aircraft engine manufacturers to apply for an experimental certificate to use the modified aircraft for market surveys, sales demonstrations, or customer crew training in the same manner as aircraft and aircraft engine manufacturers. In recent years type-certificated aircraft have been altered by a variety of modifications other than installation of different engines. Aircraft and aircraft engine manufacturers are eligible for experimental certificates to conduct market survey flights of their modifications. This amendment permits other aircraft modifiers to conduct such flights using an experimental certificate without obtaining an exemption for this purpose.

EFFECTIVE DATE: November 8, 1984.

## FOR FURTHER INFORMATION CONTACT:

Alphonse G. Santarelli, Aircraft Manufacturing Division (AWS-200), Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 426-8361.

## SUPPLEMENTARY INFORMATION:

## Background

This amendment, which permits aircraft modifiers who are neither aircraft nor aircraft engine manufacturers to apply for an experimental certificate to use the modified aircraft for market surveys, sales demonstrations, or customer crew training in the same manner as aircraft and aircraft engine manufacturers, is adopted for essentially the reasons outlined in Notice of Proposed Rulemaking (NPRM) No. 84-1 (49 FR 6468; February 21, 1984). That action responded to the Raisbeck-Western petition to amend § 21.195(a) to permit aircraft modifiers to use those aircraft for market survey purposes in the same manner as aircraft manufacturers.

Section 21.195(a) of the Federal Aviation Regulations (FAR) states that a manufacturer of aircraft manufactured within the United States may apply for

an experimental certificate for an aircraft that is to be used for market surveys, sales demonstrations, or customer crew training. Section 21.195(b) of the FAR states that a manufacturer of aircraft engines who has altered a type-certificated aircraft by installing different engines, manufactured by him within the United States, may apply for an experimental certificate for that aircraft to be used for market surveys, sales demonstrations, or customer crew training if the basic aircraft, before alteration, was type certificated in the normal, acrobatic, or transport category. For the purpose of this amendment, an aircraft modifier is a person who has altered the design of an aircraft that before alteration was type certificated in the normal, acrobatic, or transport category.

In recent years, type-certificated aircraft have been altered by a variety of modifications other than installation of different engines. The above sections do not permit a "non-engine" aircraft modifier to apply for an experimental certificate to use an aircraft altered by him for market surveys, sales demonstrations, or customer crew training. A number of aircraft modifiers have been granted exemptions from either § 21.195 (a) or (b) to the extent necessary to permit those aircraft modifiers to apply for experimental certificates for aircraft to be used for market surveys, sales demonstrations, or customer crew training, subject to certain limitations.

In view of the foregoing, the Federal Aviation Administration (FAA) has determined that it is in the public interest to permit aircraft modifiers to apply for an experimental certificate to use the modified aircraft for market survey purposes.

This amendment also adds a cross-reference provision to § 21.191(f) to more clearly show the interrelationship between this paragraph and § 21.195. Also, the utility category is added to § 21.195(c) since the utility category is one of the standard categories listed in §§ 21.21 and 21.183 and was inadvertently omitted previously. These are considered to be editorial changes.

## Discussion of Comments

Seven commenters, representing the views of associations, individuals, and modifiers, submitted responses to NPRM 84-1. The responses are favorable.

Five commenters concur with the NPRM. One commenter, a pilot association, has no comment on the NPRM at this time. Another commenter, an airline association, advises that 14 members replied: 6 members concur with the NPRM, 6 members have no

objection, and 2 members have no comment.

## Regulatory Evaluation

## Benefits

Adopting this rule will relieve an unnecessary regulatory constraint and would thus provide benefits to certain aircraft modifiers. It will allow them to be eligible to apply for experimental certificates under Part 21 to test the market potential of modified aircraft before mass producing the modification kits, to demonstrate the modified aircraft to potential customers, and to conduct customer crew training.

In addition, a number of aircraft modifiers have been granted exemptions in the past to allow them to apply for experimental certificates for market survey. This rule will eliminate the need for an aircraft modifier to obtain an exemption from the requirements of Part 21 to apply for an experimental certificate to allow the modifier's aircraft to be used for market surveys, sales demonstrations, or customer crew training in the same manner as an aircraft or aircraft engine manufacturer. By obviating the need for an exemption, this rule will eliminate the minor cost required to develop and submit a petition for exemption and avoid the minor costs related to time lost while the aircraft modifier awaits the exemption. Additionally, the Federal Government (FAA) will experience minimal cost savings as the requirement to review and process petitions for exemptions submitted by aircraft modifiers to apply for experimental certificates is eliminated.

## Costs

This rule will impose no new costs or requirements on aircraft modifiers, the aviation public, or the Federal Government. This rule will permit aircraft modifiers to submit applications for experimental certificates for market surveys which the FAA will process consistent with practices under § 21.195 (a) and (b).

Comments Received on Notice of  
Proposed Rulemaking

Seven commenters, representing the views of associations, individuals and modifiers, submitted responses to the NPRM. Four commenters provided statements with regard to the economic considerations, with all endorsing the proposed rule as having a positive economic impact.

## Benefit/Cost Conclusion

Based on the aforementioned discussion of the benefit and cost

aspects of the rule, the benefits clearly exceed the costs.

#### *International Trade Impact Analysis*

This rule will have little or no impact on trade for both U.S. firms doing business in foreign countries and foreign firms doing business in the United States. Furthermore, no comments were received on the topic of international trade impacts.

#### *Regulatory Flexibility Act Determination*

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure, among other things, that small entities are not disproportionately affected by Government regulations. The RFA requires agencies to review rules which may have a "significant economic impact on a substantial number of small entities." Certain aircraft modifiers may be classified as small entities according to the RFA. However, since this proposed rule would result in minimal savings and would not impose additional cost, it will not have a significant economic impact on any of these entities.

Therefore, FAA has determined that the amendment will not, if enacted, have a significant economic impact on a substantial number of small entities.

#### **Conclusion**

This amendment provides compatibility with other paragraphs in § 21.195 to enable a modifier of aircraft to obtain an experimental certificate for a modified aircraft in the same manner as an aircraft or engine manufacturer. Furthermore, this amendment is not likely to result in an annual effect on the economy of \$100 million or more or a

major increase in costs for consumers; industry; or Federal, State, or local government agencies. In addition, this amendment will have little or no impact on trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States. Accordingly, it has been determined that this is not a major regulation under Executive Order 12291. In addition, the FAA has determined that this action is nonsignificant under Department of Transportation Regulatory Policy and Procedures (44 FR 11034; February 26, 1979). Finally, as discussed previously in the preamble, it is certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities. A copy of the regulatory evaluation for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

#### **List of Subjects in 14 CFR Part 21**

Air transportation, Aircraft, Aviation safety, Safety.

#### **Adoption of the Amendment**

Accordingly, Part 21 of the Federal Aviation Administration Regulations (14 CFR Part 21) is amended as follows, effective November 8, 1984:

#### **PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS**

1. By amending § 21.191 by revising paragraph (f) to read as follows:

#### **§ 21.191 Experimental certificates.**

\* \* \* \* \*

(f) *Market surveys.* Use of aircraft for purposes of conducting market surveys, sales demonstrations, and customer crew training only as provided in § 21.195.

\* \* \* \* \*

2. By amending § 21.195 by redesignating present paragraph (c) as (d) and by adding a new paragraph (c) as follows:

**§ 21.195 Experimental certificates: Aircraft to be used for market surveys, sales demonstrations, and customer crew training.**

\* \* \* \* \*

(c) A person who has altered the design of a type certificated aircraft may apply for an experimental certificate for the altered aircraft to be used for market surveys, sales demonstrations, or customer crew training if the basic aircraft, before alteration, was type certificated in the normal, utility, acrobatic, or transport category.

\* \* \* \* \*

(Secs. 313, 314, 601, 603(c), 605, 603, 609, and 610, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1355, 1421, 1423(c), 1425, 1423, 1429, and 1430); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 21, 1983)

Issued in Washington, D.C., on September 10, 1984.

Donald D. Engen,  
Administrator.

[FR Doc. 84-26360 Filed 10-5-84; 8:45 am]  
BILLING CODE 4910-13-M



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1689) Price \$1.00

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year 1985, and for other  
purposes (October 3, 1984; 98  
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**H.J. Res. 392/Pub. L. 98-442**

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on the occasion of the  
anniversary of the attack on  
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1984; 98 Stat. 1702) Price:  
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